

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KRISTINA MIKHAYLOVA,

Plaintiff, Case No.
19-8927
-against-

BLOOMINGDALE'S INC., BLOOMINGDALE'S, INC.,
d/b/a BLOOMINGDALE'S abd FORTY CARROTS,
BLOOMINGDALE'S , LLC, BLOOMINGDALE'S
LLC d/b/a BLOOMINGDALE'S NEW YORK,
MACY'S INC., MACY'S INC. d/b/a MACY'S
OF NEW YORK, UNITED STOREWORKERS RETAIL,
WHOLESALE AND DEPARTMENT STORE UNION
AFL-CIO LOCAL 3 a/k/a LOCAL 3 UNITED
STOREWORKERS RWDSU/UFCW, DENNIS DIAZ,
individually, CHRISTOPHER CASTELLANI,
individually, RICHARD LAW, individually,
and BOBBY BOOKER, individually,

Defendants.

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Zoom Video Communications

October 28, 2022
10:13 a.m.

EXAMINATION BEFORE TRIAL of DENIS DIAZ, a
Defendant herein, taken by the Plaintiff, pursuant
to Article 31 of the Civil Practice Law & Rules of
Testimony, and Court Order, held at the
above-mentioned time and place, before
JOANNA MARTINEZ a Notary Public of the State of
New York

A P P E A R A N C E S:

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ALSO PRESENT:
David Tyndall, Macy's paralegal
Matt Messner, Everest Tech

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective parties
hereto, that the filing, sealing and certification
5 of the within deposition shall be and the same are
6 hereby waived;

IT IS FURTHER STIPULATED AND AGREED
8 that all objections, except as to form of the
9 question, shall be reserved to the time of the
10 trial;

IT IS FURTHER STIPULATED AND AGREED
12 that the within deposition may be signed before any
13 Notary Public with the same force and effect as if
14 signed and sworn to before the Court.

15 * * *

<p style="text-align: right;">Page 4</p> <p>1 DENIS DIAZ, after having first been duly</p> <p>2 sworn by a Notary Public of the State of New York,</p> <p>3 was examined and testified as follows:</p> <p>4 BY THE STENOGRAPHER:</p> <p>5 Q State your name for the record, please.</p> <p>6 A Denis Diaz.</p> <p>7 Q State your address for the record, please.</p> <p>8 A 2540 Shore Boulevard, Astoria, New York</p> <p>9 11102.</p> <p>10 MS. MENDOZA: Good morning, Mr. Diaz. My</p> <p>11 name is Melissa Mendoza, and I am the</p> <p>12 plaintiff's attorney. The plaintiff in this</p> <p>13 case is Kristina Mikhaylova. I am her</p> <p>14 attorney, and I will be taking deposition</p> <p>15 today. Okay?</p> <p>16 THE WITNESS: Good morning.</p> <p>17 MS. MENDOZA: Good morning. And before we</p> <p>18 begin, I am going to go over some ground rules</p> <p>19 and kind of discuss the process for today,</p> <p>20 okay.</p> <p>21 All right. Have you ever been to a</p> <p>22 deposition before?</p> <p>23 THE WITNESS: No.</p> <p>24 MS. MENDOZA: Okay. And the court</p> <p>25 reporter is taking down everything that we say,</p>	<p style="text-align: right;">Page 6</p> <p>1 important that you answer -- that you</p> <p>2 understand my question. So if there's any</p> <p>3 question that you do not understand, please ask</p> <p>4 me to rephrase it. I'm happy to rephrase it as</p> <p>5 many times so that you can understand the</p> <p>6 question that is posed. Okay?</p> <p>7 THE WITNESS: Yes.</p> <p>8 EXAMINATION</p> <p>9 BY MS. MENDOZA:</p> <p>10 Q Okay. Are you aware of any reason that</p> <p>11 might impair or prevent you from fully and</p> <p>12 truthfully responding to the questions asked today?</p> <p>13 A No.</p> <p>14 Q Do you suffer from any condition either</p> <p>15 mental or physical that might impair your ability to</p> <p>16 understand my questions?</p> <p>17 A No.</p> <p>18 Q Have you taken any prescription medication</p> <p>19 or otherwise in the last 24 hours?</p> <p>20 A No.</p> <p>21 Q And were you supposed to take any</p> <p>22 prescription medication or otherwise in the last 24</p> <p>23 hours which you did not take?</p> <p>24 A No.</p> <p>25 Q Okay. And have you consumed any alcohol</p>
<p style="text-align: right;">Page 5</p> <p>1 so it's very important that you respond</p> <p>2 clearly, loudly, and also that you do not speak</p> <p>3 while I am speaking so that she can take down</p> <p>4 exactly what we're both saying and we're not</p> <p>5 speaking over each other. Okay?</p> <p>6 THE WITNESS: Yes.</p> <p>7 MS. MENDOZA: Okay. And if you would like</p> <p>8 to take any breaks at any point, that's</p> <p>9 perfectly fine, just let me know, and we can</p> <p>10 stop. But, however, I do ask that you answer</p> <p>11 the last question that was asked before we take</p> <p>12 the break. Okay?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MS. MENDOZA: And you understand that you</p> <p>15 are under oath today, correct?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MS. MENDOZA: Which means that you swore</p> <p>18 to tell the truth, correct?</p> <p>19 THE WITNESS: Yes.</p> <p>20 MS. MENDOZA: And even though we are in an</p> <p>21 informal setting, your answers have the same</p> <p>22 force and effect as if we were in front of a</p> <p>23 judge or jury; do you understand?</p> <p>24 THE WITNESS: Yes.</p> <p>25 MS. MENDOZA: Okay. And it's very</p>	<p style="text-align: right;">Page 7</p> <p>1 in the past 24 hours?</p> <p>2 A No.</p> <p>3 Q Okay. So do you know why you are here</p> <p>4 today?</p> <p>5 A Yes.</p> <p>6 Q And why is that?</p> <p>7 MR. GERBER: Objection to the form of the</p> <p>8 question.</p> <p>9 You can answer it, Mr. Diaz.</p> <p>10 A I received a letter that there was --</p> <p>11 Kristina -- I don't know her last name --</p> <p>12 Mikhaylova, I guess, filed a suit against</p> <p>13 Bloomingdale's.</p> <p>14 Q Okay. And did you work with Kristina</p> <p>15 Mikhaylova?</p> <p>16 A Yes.</p> <p>17 Q Okay. And when was that?</p> <p>18 A I worked there from December 2016. I</p> <p>19 think we only worked together six months or so.</p> <p>20 Q Okay. And where did you work together?</p> <p>21 A At Bloomingdale's in the Chanel handbags</p> <p>22 accessory boutique.</p> <p>23 Q Okay. And were you her supervisor?</p> <p>24 A Yes.</p> <p>25 Q Okay. So is it fair to say that you</p>

<p>1 worked with Kristina -- withdrawn.</p> <p>2 Do you recall if Kristina Mikhaylova</p> <p>3 worked at Bloomingdale's from May 2016 until</p> <p>4 June 16th, 2017?</p> <p>5 MR. GERBER: Object to the form.</p> <p>6 A I'm sorry. I don't understand. Could you</p> <p>7 can repeat that, please.</p> <p>8 Q Yeah. So did you start -- did you work</p> <p>9 with Kristina in May 2016?</p> <p>10 A Yes.</p> <p>11 MS. MENDOZA: Okay. So for purposes of</p> <p>12 this deposition I will be talking about that</p> <p>13 time frame, that 2016 to 2017, unless I say</p> <p>14 otherwise. Okay?</p> <p>15 THE WITNESS: Okay.</p> <p>16 Q And how were you informed of today's</p> <p>17 deposition?</p> <p>18 A I received an email from Betty. I don't</p> <p>19 know her last name.</p> <p>20 Q Is that your attorney?</p> <p>21 MR. GERBER: Together with me, Ms. Chang</p> <p>22 wrote -- and I represent Ms. Diaz -- Betty</p> <p>23 Chang.</p> <p>24 Q And tell me how you prepared for today's</p> <p>25 deposition?</p>	<p>Page 8</p> <p>1 about --</p> <p>2 MS. MENDOZA: Let me just ask you, what do</p> <p>3 you mean by "deadline"?</p> <p>4 MR. GERBER: Your 2:30 deadline.</p> <p>5 MS. MENDOZA: Right. So you're asking me</p> <p>6 to ask him questions so that I --</p> <p>7 MR. GERBER: I objected to the form of the</p> <p>8 question. Just pose another question, Counsel.</p> <p>9 Let's just move on.</p> <p>10 MS. MENDOZA: Counsel, let's get off the</p> <p>11 record, please.</p> <p>12 MR. GERBER: There's no need to get off</p> <p>13 the record. You can ask him how he prepared</p> <p>14 for the deposition, if he did.</p> <p>15 MS. MENDOZA: I would like to get off the</p> <p>16 record, please.</p> <p>17 (Discussion held off the record.)</p> <p>18 Q And before we begin, I want to put on the</p> <p>19 record that I have informed the witness and his</p> <p>20 counsel that I do have to stop by 2:30 this</p> <p>21 afternoon, because I have to -- I have a medical</p> <p>22 emergency for my daughter, in which have to take her</p> <p>23 to the doctor. And, therefore, to avoid having to</p> <p>24 adjourn this deposition, we are going to try to</p> <p>25 finish by 2:30, taking as many breaks as Mr. Diaz</p>
<p>Page 9</p> <p>1 MR. GERBER: Object to the form of the</p> <p>2 question. You can indicate that you had</p> <p>3 communications, if you did, with counsel. You</p> <p>4 cannot discuss the contents of those</p> <p>5 communications.</p> <p>6 A Yes. That surmises it, yes.</p> <p>7 Q Are you just you're agreeing with what</p> <p>8 Mr. Gerber said?</p> <p>9 A No, I'm agreeing with Mr. Gerber.</p> <p>10 Q Which is what?</p> <p>11 MR. GERBER: Object to the form of</p> <p>12 question. Why don't you ask him if he</p> <p>13 communicated with counsel to prepare for the</p> <p>14 deposition, and then you can ask him if he did</p> <p>15 anything else to prepare for the deposition.</p> <p>16 MS. MENDOZA: Counsel, are you telling me</p> <p>17 what to ask the deponent?</p> <p>18 MR. GERBER: I'm telling you what to ask</p> <p>19 so you can meet your deadline. Obviously, we</p> <p>20 represent the witness. Obviously, I'm going to</p> <p>21 direct the witness not to answer questions</p> <p>22 about the content of his communications with</p> <p>23 counsel. If you want to ask him whether he</p> <p>24 communicated with counsel to prepare for his</p> <p>25 deposition, you're welcome to do so, but not</p>	<p>Page 11</p> <p>1 requests and, if not, then I will ask to call back</p> <p>2 Mr. Diaz.</p> <p>3 THE VIDEO TECH: Sorry to interrupt,</p> <p>4 Counsel, but Mr. Gerber is still not connected</p> <p>5 to the audio yet.</p> <p>6 (Technical issues.)</p> <p>7 (Discussion held off the record.)</p> <p>8 (Whereupon, the last question was read</p> <p>9 back.)</p> <p>10 Q All right. Mr. Diaz, did you review any</p> <p>11 documents before today's -- withdrawn.</p> <p>12 Did you review any documents to</p> <p>13 prepare for today's deposition?</p> <p>14 A I spoke with Steve and Betty a couple of</p> <p>15 days ago.</p> <p>16 Q Okay. But did you look at any documents</p> <p>17 in this case?</p> <p>18 A I did look at some, yes.</p> <p>19 Q Okay. And what were those documents?</p> <p>20 A I think it was -- a couple of them were</p> <p>21 just -- it's obviously been five years, so I don't</p> <p>22 recall everything. So just some write-ups or things</p> <p>23 that had transpired at that time.</p> <p>24 Q Okay. And was anyone else -- withdrawn.</p> <p>25 Did you speak with anyone else</p>

<p>Page 12</p> <p>1 besides your attorneys to prepare for today's 2 deposition?</p> <p>3 A I did not.</p> <p>4 Q And have you spoken with any employees of 5 Bloomingdale's -- withdrawn.</p> <p>6 Are you still an employee of 7 Bloomingdale's?</p> <p>8 A I am not.</p> <p>9 Q And did you speak with any Bloomingdale's 10 or Macy's to prepare for today's deposition?</p> <p>11 A I did not.</p> <p>12 Q Okay. When was the last time you spoke 13 with -- withdrawn.</p> <p>14 Where were you born?</p> <p>15 A I was born in Camaguey, Cuba.</p> <p>16 Q And when did you move to the United 17 States?</p> <p>18 A When I was barely two years ago.</p> <p>19 Q And when was that?</p> <p>20 A 1962.</p> <p>21 Q And where did you live at that time?</p> <p>22 A Originally Freeport, Long Island then we 23 moved to Astoria, New York.</p> <p>24 Q Okay. And are those the only two 25 locations that you've resided in?</p>	<p>Page 14</p> <p>1 Q Okay. And what did you have to testify 2 about?</p> <p>3 A Oh, gosh. Just that -- I think they just 4 wanted to know what I did there. It was a licensee 5 and they wanted to know, I guess, if the licensee 6 rolled out and how it's managed in essence.</p> <p>7 Q Okay. What was the case about?</p> <p>8 A I think if I remember correctly the 9 designer Oscar de la Renta did not like the 10 distribution of his product to other -- it was to 11 certain stores that weren't as high-end for him, I 12 guess.</p> <p>13 Q And were you a named party in that case?</p> <p>14 A I was not.</p> <p>15 Q What was the outcome of that case?</p> <p>16 A The outcome for the case; I think was 17 Mr. De la Renta won.</p> <p>18 Q Okay. Have you ever been a plaintiff in a 19 lawsuit?</p> <p>20 A Never.</p> <p>21 Q And have you ever been a defendant in a 22 lawsuit?</p> <p>23 A No.</p> <p>24 Q Have you ever been convicted or pled 25 guilty to a crime other than a minor traffic</p>
<p>Page 13</p> <p>1 A No, for a job years ago I lived in 2 Minneapolis for one year, but aside from that I've 3 always been a New Yorker.</p> <p>4 Q Okay. So where do you currently lived?</p> <p>5 A In Astoria, New York.</p> <p>6 Q Okay. And are you married?</p> <p>7 A No.</p> <p>8 Q Have you ever been married?</p> <p>9 A No.</p> <p>10 Q And have you gone by any other name 11 besides Dennis?</p> <p>12 A No.</p> <p>13 Q Or Diaz? Last name Diaz?</p> <p>14 A No, that's it.</p> <p>15 Q Okay. And have you ever -- I know you 16 said you've never been at a deposition before, 17 correct?</p> <p>18 A Yes.</p> <p>19 Q So you've never had your deposition taken, 20 correct?</p> <p>21 A Right, yes.</p> <p>22 Q Have you ever testified in a case?</p> <p>23 A There was a case -- I think it was in the 24 80s that I testified. I was working for Oscar de la 25 Renta.</p>	<p>Page 15</p> <p>1 violation?</p> <p>2 A None.</p> <p>3 Q So now I'm going ask you about your 4 employment. Who is your current employer?</p> <p>5 A Bergdorf Goodman.</p> <p>6 Q And where is that? Where do you work?</p> <p>7 A It's 754 Fifth Avenue.</p> <p>8 Q And how long have you been working there?</p> <p>9 A A little over three years.</p> <p>10 Q What's your position at Bergdorf?</p> <p>11 A Business manager of Celine.</p> <p>12 Q Was that the only position you've held for 13 Bergdorf?</p> <p>14 A When I started there I started as a 15 salesperson. I was promoted after -- I guess right 16 after we went back from COVID, I was promoted.</p> <p>17 Q And all in the Celine department?</p> <p>18 A No, before I was a salesperson on the 19 second floor, which is the luxury floor for Giorgio 20 Armani and then after that I was promoted to Celine.</p> <p>21 Q Okay. And where did you work before that?</p> <p>22 A Bloomingdale's.</p> <p>23 Q And why did you leave Bloomingdale's?</p> <p>24 A Better opportunity. I worked at Bergdorf 25 Goodman before, so I wanted to go back to working</p>

<p>1 there.</p> <p>2 Q Did you work at Bergdorf before</p> <p>3 Bloomingdale's?</p> <p>4 A No. It was a number of years before, but</p> <p>5 I always loved the store and wanted to go back.</p> <p>6 Q Okay. And when you say better</p> <p>7 opportunity, what do you mean?</p> <p>8 A It's just a lovely store, a beautiful</p> <p>9 store, you know, wonderful clients, that's all.</p> <p>10 Q Was there a pay increase?</p> <p>11 A No, it was the same.</p> <p>12 Q And what was your last title at</p> <p>13 Bloomingdale's?</p> <p>14 A Business manager of Chanel accessories.</p> <p>15 Q So to clarify you went from business</p> <p>16 manager to then a salesperson at Bergdorf, correct?</p> <p>17 A Yes.</p> <p>18 Q And is that a demotion, or is that a lower</p> <p>19 level than the business manager position?</p> <p>20 A Oddly enough it's not a demotion, because</p> <p>21 the sales associate at Bergdorf Goodman make a lot</p> <p>22 commission and a lot more money than a manager.</p> <p>23 Q And going back to Bloomingdale's, when did</p> <p>24 you start working at Bloomingdale's?</p> <p>25 A In the middle of December. I don't know</p>	<p>Page 16</p> <p>1 the higher tier, because my business was actually</p> <p>2 doing quite well so we were successful.</p> <p>3 Q Okay. So is it based on how many sales or</p> <p>4 how much is done in the year?</p> <p>5 A Yes.</p> <p>6 MR. GERBER: Object to the form of the</p> <p>7 question.</p> <p>8 Go ahead, sir. Sorry.</p> <p>9 A It is based on -- on sales, yes.</p> <p>10 Q Okay. And does everyone in that</p> <p>11 department get a raise?</p> <p>12 MR. GERBER: Object to the form of he</p> <p>13 question. No foundation.</p> <p>14 THE WITNESS: Do I answer?</p> <p>15 MR. GERBER: Yes, go ahead.</p> <p>16 A No, not necessarily. Most do. I would</p> <p>17 say if I remember correctly, most do, but it's --</p> <p>18 again, since it's commission it's more so based you</p> <p>19 -- you in essence you guarantee your own salary. The</p> <p>20 more you sell, the more you make.</p> <p>21 Q Right, okay. Did you receive any</p> <p>22 write-ups or disciplinary action while at</p> <p>23 Bloomingdale's?</p> <p>24 A Yes.</p> <p>25 Q And how many?</p>
<p>1 the exact date but December of 2016.</p> <p>2 Q Okay. And how did you get that job?</p> <p>3 A I think a head hunter approached me about</p> <p>4 it.</p> <p>5 Q Okay. And what was your starting</p> <p>6 position?</p> <p>7 A My starting position was business manager</p> <p>8 of Chanel accessories.</p> <p>9 Q So you were in the same position the whole</p> <p>10 time, correct?</p> <p>11 A Yes, yes, yes.</p> <p>12 Q Okay. So then you left in 2019; is that</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q Did you ever receive any promotions or</p> <p>16 raises while at Bloomingdale's?</p> <p>17 A Raises, yes. Not promotions but raises.</p> <p>18 Q Did you receive a raise every year?</p> <p>19 A Yes.</p> <p>20 Q And what are the raises based on?</p> <p>21 A They're never as high as one hopes.</p> <p>22 Usually a little less than cost of living so...</p> <p>23 Q But is it based on your performance</p> <p>24 review?</p> <p>25 A It's both, but I'm usually geared toward</p>	<p>Page 17</p> <p>1 A I think just one.</p> <p>2 Q Okay. Can you explain what that one</p> <p>3 write-up or disciplinary action was?</p> <p>4 A I'm sorry, I didn't hear you.</p> <p>5 Q Can you explain what that one disciplinary</p> <p>6 action or write-up was?</p> <p>7 A It was based on -- if I'm not mistaken,</p> <p>8 just not -- they wanted me to have more disciplinary</p> <p>9 action towards the associates. They wanted me to,</p> <p>10 in essence, have a better follow through with them.</p> <p>11 Q Okay. And did you receive any suspension</p> <p>12 or a warning?</p> <p>13 A No.</p> <p>14 Q So what was the outcome of this?</p> <p>15 A Just a 30-day review -- sorry. A</p> <p>16 60-review and then to see where we -- you know, how</p> <p>17 I proceeded, I guess, and I'm assuming things got</p> <p>18 better because they didn't move forward.</p> <p>19 Q And when was this?</p> <p>20 A Oh, 2018, I think. I don't remember</p> <p>21 exactly.</p> <p>22 Q And did someone report you?</p> <p>23 A No one did.</p> <p>24 Q So how did this issue get raised?</p> <p>25 A It got raised because it was my -- through</p>
<p>Page 18</p>	<p>Page 19</p>

<p>1 any supervisor Cathy Younis.</p> <p>2 Q Okay. And so did Cathy Younis approach</p> <p>3 you about it?</p> <p>4 A Yes.</p> <p>5 Q Did she go to HR?</p> <p>6 A Yes.</p> <p>7 Q And was Richard Long the HR person that</p> <p>8 she contacted?</p> <p>9 A I -- no.</p> <p>10 Q Who was the HR person?</p> <p>11 A I think it was Steve Vellecca.</p> <p>12 Q And after she contacted him, did they both</p> <p>13 then contact you?</p> <p>14 A Yes.</p> <p>15 Q And was the meeting held?</p> <p>16 A Yes.</p> <p>17 Q And what was discussed at the meeting?</p> <p>18 A What was discussed was ensuring that I was</p> <p>19 following all protocols with regards to ensuring all</p> <p>20 associates followed the standards, so in essence,</p> <p>21 you know, being more consistent with writing</p> <p>22 associates up if there was latenesses or other</p> <p>23 issues.</p> <p>24 Q Okay. So did you have a manual that you</p> <p>25 had to follow as a manager?</p>	Page 20	<p>1 Did you have to attend these classes</p> <p>2 as part of your job?</p> <p>3 A Yes.</p> <p>4 Q So is that written anywhere, that you have</p> <p>5 to attend these classes.</p> <p>6 MR. GERBER: Object to the form of the</p> <p>7 question.</p> <p>8 A It's not written anywhere. We all</p> <p>9 received an email inviting us to it and we would</p> <p>10 attend.</p> <p>11 Q Okay. And I'll go back a little bit. So</p> <p>12 was it at the beginning of your employment were you</p> <p>13 told that as a manager you will have to take these</p> <p>14 classes throughout the year?</p> <p>15 A I don't recall being told that. I just</p> <p>16 know that we received them as managers we would</p> <p>17 attend.</p> <p>18 Q Okay. Was there anything that prompted</p> <p>19 these classes?</p> <p>20 A It was managers' meetings in general that</p> <p>21 were held pretty much weekly.</p> <p>22 Q Okay. And so the managers' meeting, was</p> <p>23 including HR, or was that just for your department?</p> <p>24 A It included HR.</p> <p>25 Q Okay.</p>	Page 22
<p>1 MR. GERBER: Object to the form.</p> <p>2 A Not per se. A manual, you know, there</p> <p>3 would be, you know, HR classes and things that we'd</p> <p>4 go through.</p> <p>5 Q Just for managers alone; is that correct?</p> <p>6 A Yes.</p> <p>7 Q And what were those classes?</p> <p>8 A It depended on the class, obviously. You</p> <p>9 know, they were based on policy. You know, where</p> <p>10 they would go over policies with managers and any</p> <p>11 new directors, they would go over with us.</p> <p>12 Q Okay. And who led these classes?</p> <p>13 A They were led typically by human</p> <p>14 resources.</p> <p>15 Q Okay. By Steve Vellecca.</p> <p>16 A As well as other managers in HR.</p> <p>17 Q Okay. Do you recall who?</p> <p>18 A I'm sorry, it's been some time. Susan</p> <p>19 Wright I know was one of the managers there, Steve</p> <p>20 Vellecca, I don't remember the others.</p> <p>21 Q Okay. Did you have to sign off anything</p> <p>22 on these manager classes that you took then?</p> <p>23 A Not that I recall.</p> <p>24 Q Okay. Was there like a record --</p> <p>25 withdrawn.</p>	Page 21	<p>1 A And it was all managers.</p> <p>2 Q For the whole store?</p> <p>3 A Yes.</p> <p>4 Q Okay. And to clarify, what store did you</p> <p>5 work at?</p> <p>6 A Bloomingdale's on 59th Street.</p> <p>7 Q Okay. And so you said Cathy Younis was</p> <p>8 your supervisor, correct?</p> <p>9 A Yes.</p> <p>10 Q So for the whole time that you were there,</p> <p>11 was it Cathy Younis that was at these meetings as</p> <p>12 well with you?</p> <p>13 A Yes.</p> <p>14 Q And anyone else that you can recall at</p> <p>15 these meetings?</p> <p>16 A Every single manager.</p> <p>17 Q Approximately how many?</p> <p>18 A I don't know, 50, 60 managers. I'm not</p> <p>19 really sure.</p> <p>20 Q Okay. And so was it all on a call?</p> <p>21 A No. It was back before COVID. It was</p> <p>22 in-person.</p> <p>23 Q Okay. During these meetings, did you ever</p> <p>24 discuss any policies regarding the discount use by</p> <p>25 employees?</p>	Page 23

<p>Page 24</p> <p>1 MR. GERBER: I'm sorry. I didn't hear the</p> <p>2 question. Can I ask the reporter to read back</p> <p>3 the trail off at the end.</p> <p>4 (Whereupon, the last question was read</p> <p>5 back.)</p> <p>6 A Yes, they were discussed.</p> <p>7 Q Okay. And can you explain what was</p> <p>8 discussed?</p> <p>9 A What was discussed is, that we obviously</p> <p>10 had an employee discount that we can use and during</p> <p>11 certain times of year. They would offer additional</p> <p>12 discounts for the employees as an incentive and</p> <p>13 pretty much that's it. As time went on, they would</p> <p>14 offer obviously more meetings and more -- more</p> <p>15 directives for different things.</p> <p>16 Q Okay. Was there any discussion about</p> <p>17 employees abusing the discount employee discount?</p> <p>18 A Yes.</p> <p>19 Q Okay. And what was discussed?</p> <p>20 A Certain policies that were in effect that</p> <p>21 employees could not -- obviously, they could only</p> <p>22 use their employee discount for themselves and</p> <p>23 family. They could not let anyone else use their</p> <p>24 employee discount. Pretty much standard stuff.</p> <p>25 Q And when was this discussed?</p>	<p>Page 26</p> <p>1 A Yes.</p> <p>2 Q On the use? Okay. So going back to your</p> <p>3 write-up, was it documented anywhere, your write-up?</p> <p>4 A Yes.</p> <p>5 Q So did you have to sign something?</p> <p>6 A Yes.</p> <p>7 MS. MENDOZA: Okay. We will request for</p> <p>8 that document.</p> <p>9 Q And after -- you said that afterwards</p> <p>10 nothing happened? After the 30 days, correct?</p> <p>11 A Yes.</p> <p>12 Q Withdrawn. Was part of that write-up that</p> <p>13 you would have to follow up in 30 days as to whether</p> <p>14 you were meeting the expectation of the write-up?</p> <p>15 A I think it was 60 days that I said</p> <p>16 originally. They gave you time.</p> <p>17 Q Okay, 60 days. So after 60 days then what</p> <p>18 happened?</p> <p>19 A From what I recall nothing.</p> <p>20 Q So it wasn't even that you were told that</p> <p>21 you had met the standard?</p> <p>22 MR. GERBER: Object to the form of the</p> <p>23 question.</p> <p>24 MS. MENDOZA: I'll rephrase it.</p> <p>25 Q Did anyone -- did Cathy tell you that you</p>
<p>Page 25</p> <p>1 A I don't know honestly. I don't recall.</p> <p>2 It's been some time.</p> <p>3 Q Was it during Kristina's employment?</p> <p>4 A I'm not sure. It was constant. It was</p> <p>5 constantly being spoken about.</p> <p>6 Q And what oversight was there to ensure</p> <p>7 that the policies were being followed?</p> <p>8 A Well, they would -- the oversight would be</p> <p>9 that the employee would have -- it depended.</p> <p>10 Managers sometimes would ring, not always. It</p> <p>11 depended.</p> <p>12 Q What do you mean by ring?</p> <p>13 A Would ring on a register.</p> <p>14 Q Okay.</p> <p>15 A Or supervisors. Back then we had</p> <p>16 supervisors that would have to ring the transaction,</p> <p>17 which was most likely the case.</p> <p>18 Q Okay. And so when you say they would ring</p> <p>19 it, would it -- what do you mean by that?</p> <p>20 A Meaning that the employee just couldn't go</p> <p>21 to anyone to have a transaction to buy something.</p> <p>22 They would have to go a supervisor or a manager if</p> <p>23 they wanted to purchase something for themselves.</p> <p>24 Q Okay. And so you're saying that that's</p> <p>25 the oversight, right?</p>	<p>Page 27</p> <p>1 did comply with the 60-day review?</p> <p>2 A Not -- we just -- it never came up again.</p> <p>3 We didn't pursue anything going forward. Things</p> <p>4 were running smoothly so...</p> <p>5 Q And you said this was in 2018, correct?</p> <p>6 A From what I recall that's what I said,</p> <p>7 yes.</p> <p>8 Q Do you recall what time -- what month of</p> <p>9 2018?</p> <p>10 A No, I'm sorry, I don't.</p> <p>11 Q Okay. So between 2018 and your departure</p> <p>12 from Bloomingdale's, did you receive another</p> <p>13 write-up?</p> <p>14 A I don't know. I don't think so, no.</p> <p>15 Q Okay. And did you receive any reprimands?</p> <p>16 A No.</p> <p>17 Q No. I'm sorry?</p> <p>18 A Nothing.</p> <p>19 Q Okay. So your position was business</p> <p>20 manager of the Chanel boutique, correct?</p> <p>21 A Yes.</p> <p>22 Q And you said your supervisor was Cathy</p> <p>23 Younis, correct?</p> <p>24 A Yes.</p> <p>25 Q And was she also -- withdrawn.</p>

<p>Page 28</p> <p>1 What was her position in the Chanel 2 boutique?</p> <p>3 A She was director of Chanel or 4 Bloomingdale's.</p> <p>5 Q So did you have to report to her on a 6 daily basis?</p> <p>7 A Yes.</p> <p>8 MR. GERBER: Object to the form of the 9 question.</p> <p>10 Q Okay. Did she give you any assignments?</p> <p>11 A Not necessarily assignments. You know, 12 just to manage the business and if there was 13 anything ridiculous, she would let me know; but, no 14 it was a day-to-day function.</p> <p>15 Q And were you both in the boutique on a 16 daily basis?</p> <p>17 A I was in the boutique on a daily basis. 18 She would traditionally be in the Ready-to-Wear 19 boutique.</p> <p>20 Q Okay. And is there -- what's the 21 difference?</p> <p>22 A Well, it's divided by -- it's separated by 23 three floors. The Ready-to-Wear boutique is on the 24 first floor, the handbag boutique is on the ground 25 floor. It's also a different business and -- you</p>	<p>Page 30</p> <p>1 Q Okay. Were any of them -- was one of them 2 Kristina Mikhaylova?</p> <p>3 MR. GERBER: Object to the form.</p> <p>4 A I think the only issue we had with 5 Kristina was, you know, latenesses that she had.</p> <p>6 Q Okay. So that's the only -- so again 7 withdrawn.</p> <p>8 So I'm asking about reporting -- 9 complaining -- or reporting any of your employees of 10 doing any wrongdoing, right? That's what my initial 11 question was asking about. If you reported any of 12 them. And so my next question was, if one of those 13 employees was Kristina?</p> <p>14 A And my answer was that there were some 15 lateness issues that I did need to report to Cathy, 16 which were addressed.</p> <p>17 Q And that's the only issue that you 18 reported to Cathy about Kristina; is that correct?</p> <p>19 A Yes, that's correct.</p> <p>20 Q Okay. And what was Cathy's responsible?</p> <p>21 A Cathy's response was to make sure to 22 document and look up how many times she'd been 23 absence in the 30-day period and record and then 24 speak to HR about that and then we proceed from 25 there.</p>
<p>Page 29</p> <p>1 know, than accessories.</p> <p>2 Q Okay. But you spoke with Cathy on a daily 3 basis; is that correct?</p> <p>4 A Yes.</p> <p>5 Q Did you report any of your employees to 6 Cathy?</p> <p>7 A I'm sorry, I didn't hear you.</p> <p>8 Q Did you report any of your employees in 9 the boutique to Cathy?</p> <p>10 MR. GERBER: Object to the form.</p> <p>11 A What do you mean by "report employees"? 12 I'm sorry.</p> <p>13 Q Yeah. So during those -- you spoke with 14 her daily, do you recall if any -- that times you 15 told her this is -- an employee is doing something 16 that may be inappropriate?</p> <p>17 A If there was anything that I needed to 18 advise her about I would, yes.</p> <p>19 Q Okay. And do you recall when that was?</p> <p>20 A I had 17 associates, so it had happened, 21 you know, a few times.</p> <p>22 Q And do you recall which associates they 23 were?</p> <p>24 A I -- not at this point. I don't recall, 25 no.</p>	<p>Page 31</p> <p>1 Q Okay. And you mentioned you had 17 2 associates. Did you have approximately 17 during 3 the entire time of your employment at 4 Bloomingdale's?</p> <p>5 A I think pretty close to it sometimes, yes.</p> <p>6 Q And were you the only manager on the 7 floor?</p> <p>8 A Yes.</p> <p>9 Q Okay. So just to understand the 10 structure. Was it sales associates then they 11 reported -- or were supervised by and then you were 12 supervised by Cathy; is that correct?</p> <p>13 A You broke up.</p> <p>14 Q Okay. So who did you supervise?</p> <p>15 A I supervised the 17 associates.</p> <p>16 Q Okay. And so just to clarify, was it just 17 17 associates were supervised by you and then you 18 were supervised by Cathy Younis, correct?</p> <p>19 A Yes.</p> <p>20 Q There's no other manager in the Chanel 21 boutique, correct?</p> <p>22 A No.</p> <p>23 Q Okay. When you were hired, did you 24 replace someone?</p> <p>25 A I'm assuming I did. I didn't know the</p>

<p>1 person, yes.</p> <p>2 Q Okay. Who trained you?</p> <p>3 A Cathy trained me.</p> <p>4 Q Okay. Did you make any decisions to fire</p> <p>5 any of your employees?</p> <p>6 A No.</p> <p>7 Q Did you recommend that any of your</p> <p>8 employees be fired?</p> <p>9 A No.</p> <p>10 Q Did you recommend that any be suspended?</p> <p>11 A No.</p> <p>12 Q Okay. And did you report any of your</p> <p>13 employees directly to HR?</p> <p>14 A Only in cases of -- you know, there was a</p> <p>15 write-up for, you know, latenesses or, you know,</p> <p>16 those are the kind of things you have to partner</p> <p>17 with HR, so that would be probably the only</p> <p>18 instance.</p> <p>19 Q Okay.</p> <p>20 THE WITNESS: I'm sorry. If I can get</p> <p>21 some water.</p> <p>22 (Discussion held off the record.)</p> <p>23 Q What training did you -- withdrawn.</p> <p>24 Where did you work before</p> <p>25 Bloomingdale's?</p>	<p>Page 32</p>	<p>1 A Between management and sales, because I</p> <p>2 was a salesman for a number of years also, over 20</p> <p>3 years. Closer to 25, 30.</p> <p>4 Q Okay. And were they all in New York?</p> <p>5 A Yes.</p> <p>6 Q Okay. Have you ever been terminated or</p> <p>7 fired from your employment?</p> <p>8 A Yes.</p> <p>9 Q And where -- which employer fired you?</p> <p>10 A Barneys after working there three times.</p> <p>11 Q Okay. And why were you fired?</p> <p>12 A They dissolved the position. There was no</p> <p>13 longer a senior manager position.</p> <p>14 Q So you were laid off?</p> <p>15 A Yes.</p> <p>16 Q Okay. Were you ever fired for any</p> <p>17 wrongdoing?</p> <p>18 A No.</p> <p>19 Q And did you receive any disciplinary</p> <p>20 action at Barneys?</p> <p>21 A No.</p> <p>22 Q And at Gucci?</p> <p>23 A No.</p> <p>24 Q And currently at Bergdorf?</p> <p>25 A No.</p>	<p>Page 34</p>
<p>1 A Before Bloomingdale's I worked at Gucci.</p> <p>2 Q And what was your position at Gucci?</p> <p>3 A AGM, which is assistant store manager.</p> <p>4 Q Okay. And why did you leave Gucci?</p> <p>5 A The opportunity to work in Chanel, because</p> <p>6 it's obviously the top brand. One of the top</p> <p>7 brands.</p> <p>8 Q Okay. And how long did you work at Gucci?</p> <p>9 A I think four years.</p> <p>10 Q And were you always assistant store</p> <p>11 manager?</p> <p>12 A Yes, AGM.</p> <p>13 Q And where was this?</p> <p>14 A Fifth Avenue and 56th Street.</p> <p>15 Q Okay. So it was a stand alone store?</p> <p>16 A Well, it's -- in Trump tower.</p> <p>17 Q And before that where did you work?</p> <p>18 A I worked at Barneys New York.</p> <p>19 Q And what was your position?</p> <p>20 A Senior manager of accessories.</p> <p>21 Q Okay. Is it fair to say this is all in</p> <p>22 the retail business; is that correct?</p> <p>23 A Yes, it is.</p> <p>24 Q Okay. So how long -- how many years were</p> <p>25 you working in the retail business?</p>	<p>Page 33</p>	<p>1 Q Okay. So besides the Bloomingdale's</p> <p>2 write-up, have you received any other write-up?</p> <p>3 A No.</p> <p>4 Q Okay. Did you have to have a specific</p> <p>5 training -- manager training to be considered for</p> <p>6 the Bloomingdale's position?</p> <p>7 A I'm sorry, I don't know what you mean by</p> <p>8 that.</p> <p>9 Q Yeah. So I'm asking about the</p> <p>10 qualifications for the management position that you</p> <p>11 applied for at Bloomingdale's, right. So did you</p> <p>12 have to have any training or experience before to</p> <p>13 get that position?</p> <p>14 A Not training, but experience from my</p> <p>15 background, yes.</p> <p>16 Q Okay. So do you recall -- withdrawn.</p> <p>17 So can you describe your day-to-day</p> <p>18 duties while at Bloomingdale's?</p> <p>19 A Yes. I would go in each morning, I would</p> <p>20 make sure the numbers for the day before versus</p> <p>21 plan, to see where we were for the month. I would</p> <p>22 then answer any emails, obviously this is all before</p> <p>23 going on the floor, and then afterwards I would meet</p> <p>24 with Cathy, and we would go over business as far as</p> <p>25 the numbers, where we stand for the month. Any</p>	<p>Page 35</p>

<p>Page 36</p> <p>1 special, you know, if we had a trunk show or 2 ready-to-wear or something that we needed to go over 3 or things like that, and then we both come go 4 downstairs to the Esesdris (phonetic) boutique, 5 where we would then have our morning meeting with 6 the team. 7 Q Okay. When you say that you had to go 8 over the numbers, what do you mean? 9 A Just looking at -- you just look at where 10 you are to date and what's your plan and what you 11 need to do for the week, what you need to do for the 12 month. You know, typical sales, business things 13 that you have to go over. 14 Q And were all of the sale associates 15 commission based? 16 A Yes. 17 Q Okay. And so they did not get a salary or 18 hourly pay there, correct? 19 A I don't recall whether they did or not. I 20 don't think they did. I honestly don't remember. 21 Q Okay. And did you conduct any performance 22 reviews on any of the associates? 23 A Yes. 24 Q Okay. Did you do it for all 17? 25 A Yes.</p>	<p>Page 38</p> <p>1 just to discuss how they're doing? 2 A There were two -- If I remember correctly, 3 there were two reviews done each year by year, and a 4 middle one just in essence to give them an update of 5 their standing, and then at the end of the year it 6 would be a formal review to then go to HR and HR 7 would determine on the review, you know, if there 8 were any monetary gains. 9 Q And were these documented? 10 A Yes. 11 MS. MENDOZA: We will request for any, if 12 they exist for Kristina Mikhaylova. 13 Q So you said another -- there was another 14 manager; is that correct, that would conduct the 15 reviews with you if it wasn't Cathy; is that 16 correct? 17 A Most times, yes. 18 Q Who was the other -- withdrawn. 19 Was there another manager in the 20 Chanel boutique? 21 A No. 22 Q So then who would be the other manager? 23 What would be their title? 24 A I'm partnering with a floor manager. The 25 main check floor manager.</p>
<p>Page 37</p> <p>1 Q And how often did you do it? 2 A It depends. I mean, you know, if there 3 was a situation where you had to meet with an 4 employee for either productivity or, you know, their 5 sales or their, you know, latenesses or anything 6 like that and you would meet with them. 7 Q But were there any, like, annual 8 performance reviews that you had to do for each 9 employee? 10 A Yes. 11 Q Okay. And did you do it alone, or did you 12 do it with Cathy as well? 13 A Typically with Cathy and if not we would 14 always partner with another manager. 15 Q Okay. And was it for the year, was it 16 just annual, or was it quarterly? 17 A It depends. If it was a new associate you 18 would meet with them first half of the 30 days and 19 then you'd have to make sure to meet with them again 20 before you did their 90-day. 21 Q Okay. And do you recall doing a 22 performance review with Kristina Mikhaylova? 23 A No, I do not recall. 24 Q Okay. You conducted the performance 25 reviews and then would you get a raise, or was it</p>	<p>Page 39</p> <p>1 Q So can you elaborate what you mean by main 2 floor manager? 3 A Sure. The main floor of Bloomingdale's is 4 the accessories floor and they had two floor 5 managers, and often times you if you needed to sit 6 with an employee, it was best to partner with 7 another manager. You couldn't -- it didn't always 8 happen. Obviously, because of availability, but 9 most times if you could, it would be the best 10 practice. 11 Q Okay. So the main floor manager, did they 12 oversee you? 13 A No. 14 Q Okay. Did they oversee the associates -- 15 your associates? 16 A No. 17 Q So they didn't have any authority over 18 those associates; is that correct? 19 A None at all. 20 Q So they were just serving as a witness, 21 correct? 22 A Yes. 23 Q And did you conduct any trainings? 24 A Yes. 25 Q And what were those trainings?</p>

<p>Page 40</p> <p>1 A Traditionally for new associates that came 2 on board.</p> <p>3 Q Okay. And what did that entail?</p> <p>4 A That entailed -- well, teaching them 5 obviously. They kind of get a crash course in 6 register training, you know, so I help them a little 7 bit more because I know a little bit more. Assist 8 them with the register. Assist them with their 9 client book. There's a -- Bloomingdale's has a 10 system with a client book in the computer and each 11 associate gets their own, so in essence you get them 12 comfortable with that to get them to understand the 13 value of using it, and get them to -- so the 14 training was for that. There was also product 15 training, which would be obviously the Chanel 16 product. It's a number of different SKUs, number of 17 different products that they have to get training 18 on. There was, you know, Chanel training. So you'd 19 have to know the difference between the iconic bags, 20 you know the classic bags, basic bags. There was a 21 lot.</p> <p>22 Q And so you're saying that that was all 23 layed for the new hires; is that correct?</p> <p>24 A Typically it was for the new hires only, 25 because the other associates were all seasoned.</p>	<p>Page 42</p> <p>1 we had limits that you can buy; everyone has.</p> <p>2 Q And what were those limits?</p> <p>3 A When an associate first came on board they 4 were given a handbook, if you will, that gave them 5 the maximum amount of -- not only applied to 6 customers, it also applied for associates, the 7 number of bags they could buy each month and per 8 year.</p> <p>9 Q And do you recall what the number was?</p> <p>10 A Not offhand, honestly, not anymore.</p> <p>11 Q Okay. Do you recall if it changed during 12 your employment?</p> <p>13 A It did change. In July of -- I think it 14 was 2017. I don't recall exactly when, but we 15 became a lease boutique for Chanel and at that point 16 it got narrow. They narrowed the scope of what 17 customers could buy.</p> <p>18 Q Okay. You're saying customers, so was 19 there a different between employees and customers on 20 the purchase limit?</p> <p>21 A Not -- prior to be leased, no. But after 22 being leased, yes.</p> <p>23 Q And what was the difference?</p> <p>24 A The difference was the customers could buy 25 -- would have to -- their shop, for example, what</p>
<p>Page 41</p> <p>1 They were already from way before, so there already 2 well versed in these areas.</p> <p>3 Q Did you conduct any other training for the 4 associates?</p> <p>5 A What do you mean? I'm sorry.</p> <p>6 Q Yeah. So were there any annual trainings 7 that you had to do or that you were required to do?</p> <p>8 A Training only in the sense of if the 9 associate needed an -- and, frankly, we had a system 10 where they would typically ask me or Cathy that they 11 wanted to learn how to use the system better to 12 their advantage with regards to -- Bloomingdale's 13 does a lot of promotional activity. So if there's a 14 lot of mailings or things like that that they can 15 use to their advantage, so for that kind of thing, I 16 would definitely help them with that.</p> <p>17 Q Okay. And were there any purchase limits 18 on -- withdrawn.</p> <p>19 Were there any limits on how many 20 purchases an associate can make?</p> <p>21 A Are you speaking in general throughout the 22 store or in Chanel?</p> <p>23 Q Both.</p> <p>24 A I've never heard of any limits in 25 purchasing from the store. I do know that in Chanel</p>	<p>Page 43</p> <p>1 they call the classic bag or the iconic bags, if you 2 will, and any other handbag were limited less than 3 previously. And associates actually -- we loss all 4 employee discounted and everything.</p> <p>5 Q Okay. That's because it was leased, 6 right?</p> <p>7 A Yes.</p> <p>8 Q And how did you keep track of -- or how 9 did the department keep track of how many purchases 10 an employee was making?</p> <p>11 A That I -- I don't know. I think that was 12 loss prevention that kept track of it.</p> <p>13 Q And is lost -- what is lost prevention?</p> <p>14 A I guess you can call it security also.</p> <p>15 Store security.</p> <p>16 Q And was that in the store as well?</p> <p>17 A Yes.</p> <p>18 Q Yes, okay. And is that the same as asset 19 protection?</p> <p>20 A I think Bloomingdale's calls it that, yes.</p> <p>21 Q So was there a separate department for 22 loss prevention?</p> <p>23 A Yes.</p> <p>24 Q Okay. And was Christopher Castellani the 25 director of loss prevention?</p>

<p>Page 44</p> <p>1 A I don't remember him, but, yes, if he was 2 head then he would be.</p> <p>3 Q And so going back to the purchase limits. 4 Was there also any limits on the discount that -- 5 withdrawn.</p> <p>6 Was there any limit on the -- yeah, 7 the discounts that an employee could get on any 8 purchases?</p> <p>9 A Sorry. What do you mean by limit?</p> <p>10 MS. MENDOZA: I'll introduce an exhibit. 11 Can we, Matt, introduce the handbag policies.</p> <p>12 THE VIDEO TECH: Would you like to mark 13 this as Exhibit 1?</p> <p>14 MS. MENDOZA: Yes.</p> <p>15 MR. GERBER: Can you give us a Bates 16 number?</p> <p>17 MS. MENDOZA: We don't have a Bates 18 number, but I will give you that after the 19 deposition.</p> <p>20 MR. GERBER: Okay, go ahead.</p> <p>21 MS. MENDOZA: All right. So do you see 22 the document there in front of you, Mr. Diaz?</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q Okay. And you see it says handbag policy 25 at the top?</p>	<p>Page 46</p> <p>1 policy it says 24HBGs, I'm assuming -- is that 2 handbags?</p> <p>3 A Yes.</p> <p>4 Q Max of year 12 of these HBGs can be icons, 5 is that what it says?</p> <p>6 A Yes.</p> <p>7 Q So the maximum was 24 handbags per year, 8 correct?</p> <p>9 A Yes.</p> <p>10 Q And so if an employee went over the 24 11 limit, then was lost prevention automatically 12 alerted?</p> <p>13 MR. GERBER: Object to the form of the 14 question. No foundation.</p> <p>15 A No, so far as I know. I didn't track it. 16 It was tracked with them. So they would be the ones 17 that would know.</p> <p>18 Q Okay. And then it says -- the next bullet 19 point says exceptions to purchase policy with 20 management approval and then there's -- do you see 21 there's other bullet points there, correct?</p> <p>22 A Yes.</p> <p>23 Q Okay. So was there essentially -- 24 withdrawn.</p> <p>25 Was it up to your discretion or up to</p>
<p>Page 45</p> <p>1 A Yes.</p> <p>2 Q And Chanel at the bottom?</p> <p>3 A Yes.</p> <p>4 Q Okay. And do you want to take a minute to 5 look at it?</p> <p>6 A Yes.</p> <p>7 Q Have you seen this document before?</p> <p>8 A Yes.</p> <p>9 Q Okay. When did you see it?</p> <p>10 A I don't recall exactly when but most -- I 11 guess most likely when I started.</p> <p>12 Q Okay. So was this the handbag policy in 13 place before Chanel the boutique was leased?</p> <p>14 A I think so, yes. I think it was.</p> <p>15 Q Okay. And so --</p> <p>16 MR. GERBER: Is it this being marked as an 17 exhibit?</p> <p>18 MS. MENDOZA: Yes, we marked it as Exhibit 19 1.</p> <p>20 MR. GERBER: Sorry, thank you.</p> <p>21 Q And so did you ever write up any associate 22 that was abusing this policy?</p> <p>23 A I did not, no.</p> <p>24 Q Okay. And here it says 20- -- if you look 25 at the second bullet point under revised handbag</p>	<p>Page 47</p> <p>1 you if you wanted to allow an associate to exceed 2 the handbag purchase policy?</p> <p>3 A No. I'm sorry this policy -- that portion 4 of it especially refers to clients. Those are 5 exceptions made to clients. You see it says, a 6 client with multiple daughters, three or more 7 husband and wives, so this is relative to clients.</p> <p>8 Q Okay, okay. So do you recall where this 9 policy was -- withdrawn.</p> <p>10 Do you recall how this policy was 11 distributed?</p> <p>12 A If I'm not mistaken, I think it was part 13 of the handbook. I don't think I remember, but I 14 think it was.</p> <p>15 Q Okay, okay. So did you have any employees 16 exceed the 24 or 12-hand back limit?</p> <p>17 MR. GERBER: Object to the form of the 18 question.</p> <p>19 A Again, that would be something that I 20 wouldn't be privy to. I couldn't -- I couldn't 21 stand there with a \$25 million dollar business and 22 micromanage that. That's something loss prevention 23 would manage.</p> <p>24 Q So would loss prevention inform you that 25 an employee -- one of your associates has been</p>

<p>1 flagged?</p> <p>2 A Not necessarily, no.</p> <p>3 MS. MENDOZA: Okay. We can take that off</p> <p>4 the screen. Thank you.</p> <p>5 And I'll introduce the next exhibit. It</p> <p>6 says discount and employees, this will be</p> <p>7 marked as Exhibit 2.</p> <p>8 MR. GERBER: I'm sorry, we're seeing a</p> <p>9 text message up there, is that what you</p> <p>10 intended?</p> <p>11 MS. MENDOZA: Yes. It start with</p> <p>12 Mikhaylova00197, Bates stamped.</p> <p>13 MR. GERBER: And the last page of it is?</p> <p>14 MS. MENDOZA: 201.</p> <p>15 MR. GERBER: Thank you.</p> <p>16 MS. MENDOZA: All right. Mr. Diaz, take a</p> <p>17 moment to look at this document and if you</p> <p>18 would like to take control of it --</p> <p>19 Matt, if you can give him control of it on</p> <p>20 the screen.</p> <p>21 THE WITNESS: I don't think I need to take</p> <p>22 control of it.</p> <p>23 MR. GERBER: There's a second page.</p> <p>24 Q So the question is, have you seen this</p> <p>25 document -- these documents before, these text</p>	<p>Page 48</p> <p>1 Q Did you give her any write-ups regarding</p> <p>2 her purchases.</p> <p>3 A Who Sanela?</p> <p>4 Q Yeah.</p> <p>5 A No.</p> <p>6 Q Okay. So it says, "Hey Sanela. I have</p> <p>7 you on Sunday. I have a question, is there a limit</p> <p>8 to how many handbags we can purchase during sale,</p> <p>9 the ones that were additional." And the response</p> <p>10 is, "Hi, Kristina. Thank you much. No, I don't</p> <p>11 think they said anything." So my question to you</p> <p>12 is, because in that policy it didn't say anything</p> <p>13 about a sale; is that correct? The policy that we</p> <p>14 looked at in Exhibit 1, correct?</p> <p>15 A Yes.</p> <p>16 Q So was there any limits on how many</p> <p>17 handbags could be purchased during sale?</p> <p>18 A The same -- the same would apply. That</p> <p>19 would be -- I forget what the original document you</p> <p>20 showed said. I mean it was -- I think it -- as, you</p> <p>21 know, two that you could buy per month or something.</p> <p>22 It would be the same that would apply.</p> <p>23 Q Okay. But was it written anywhere?</p> <p>24 MR. GERBER: Object to the form of the</p> <p>25 question.</p> <p>Page 50</p>
<p>1 messages?</p> <p>2 A I have never seen these text messages, no,</p> <p>3 not so far. Hold on, they're sideways.</p> <p>4 MS. MENDOZA: Matt, is going to turn it</p> <p>5 for you.</p> <p>6 Q All right. And the next page, if you've</p> <p>7 seen this before? Thank you. And then the last</p> <p>8 page if you've seen this document before.</p> <p>9 A I have never seen this, no.</p> <p>10 Q Okay, all right. So we'll go back to the</p> <p>11 first page. So these were text messages that were</p> <p>12 provided by Kristina Mikhaylova and the first from</p> <p>13 Kristina's phone -- it says, "Hey, Sanela." Do you</p> <p>14 recall an associate by that name?"</p> <p>15 A Yes.</p> <p>16 Q And did she work with Kristina at the same</p> <p>17 time as Kristina 2016 to 2017?</p> <p>18 A Yes.</p> <p>19 Q And do you recall if that employee was</p> <p>20 terminated?</p> <p>21 A No, she was not.</p> <p>22 Q Okay. And do you recall if she was -- if</p> <p>23 she had exceeded the handbag policy limit?</p> <p>24 MR. GERBER: Object to the form.</p> <p>25 A No.</p> <p>Page 49</p>	<p>1 MS. MENDOZA: I'll rephrase.</p> <p>2 Q So was the policy of how many purchases be</p> <p>3 made during a sale written anywhere?</p> <p>4 A Not that I recall, no.</p> <p>5 Q It says there that -- Kristina states, "I</p> <p>6 just remember Cathy telling us we had no limits on</p> <p>7 any of the additional merchandise on sale, so I</p> <p>8 wanted to confirm." Do you recall Cathy stating</p> <p>9 that?</p> <p>10 A I've never heard that.</p> <p>11 Q Okay. Is it true that there are no limits</p> <p>12 on any of the additional purchase on sale?</p> <p>13 MR. GERBER: Object to the form of the</p> <p>14 question.</p> <p>15 MS. MENDOZA: What was your response?</p> <p>16 A I've never heard that.</p> <p>17 Q Okay. So are you saying, no, that that's</p> <p>18 not true?</p> <p>19 A I'm saying, no, it's not true.</p> <p>20 Q And if we keep going to the next page.</p> <p>21 There it says, "Hey, Amapara." Do you know who</p> <p>22 Amapara is?</p> <p>23 A Ampara, yes.</p> <p>24 Q And who is that?</p> <p>25 A She's one of the associates there?</p> <p>Page 51</p>

<p>Page 52</p> <p>1 Q In the Chanel boutique; is that correct?</p> <p>2 A Yes.</p> <p>3 Q And was she ever written-up for exceeding</p> <p>4 purchases?</p> <p>5 MR. GERBER: Objection to the form of the</p> <p>6 question on foundation.</p> <p>7 A Not that I'm aware of, no.</p> <p>8 Q Okay. And did she work with Kristina at</p> <p>9 the same time?</p> <p>10 A Yes.</p> <p>11 Q Okay. And you see there it says from</p> <p>12 Kristina, "I have a question. Was there a limit to</p> <p>13 how many handbags we can purchase during sale? The</p> <p>14 ones that were additional" and then you see there</p> <p>15 that says response is "Miss you too. No, there's no</p> <p>16 limit." Do you see that?</p> <p>17 A Yes, I see it.</p> <p>18 Q Okay. And you still disagree with this,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Okay. Over to the next page. At the top</p> <p>22 it says, "Hey, Kemi. Sorry to bother you. I know</p> <p>23 you're on vacation." Do you know to Kemi is?</p> <p>24 A Yes.</p> <p>25 Q Who is Kemi?</p>	<p>Page 54</p> <p>1 policy, or was it just for the Chanel boutique?</p> <p>2 A That was a Bloomingdale's beside policy.</p> <p>3 Q So besides the handbag policy on Exhibit 1</p> <p>4 there was also a separate Bloomingdale's policy; is</p> <p>5 that correct?</p> <p>6 MR. GERBER: Object to the form.</p> <p>7 A Yes, there was.</p> <p>8 Q Okay. And that's for the discount, right</p> <p>9 on the purchase -- withdrawn.</p> <p>10 And that 60/20/20 is regarding the</p> <p>11 discount on the purchases being made in the store,</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. And we can keep going. I believe</p> <p>15 that's it. Did you have any training regarding --</p> <p>16 withdrawn.</p> <p>17 Did you conduct any training to your</p> <p>18 employees in the boutique regarding discount abuse?</p> <p>19 A I did not, no.</p> <p>20 Q Did anyone?</p> <p>21 A Loss prevention did.</p> <p>22 Q And how often did they do that?</p> <p>23 MR. GERBER: Object to the form. No</p> <p>24 foundation.</p> <p>25 A From what I recall, probably a few times a</p>
<p>Page 53</p> <p>1 A She's one of the associates also in the</p> <p>2 boutique.</p> <p>3 Q Okay. And did she work with Kristina at</p> <p>4 the same time?</p> <p>5 A Yes.</p> <p>6 Q And did she receive any write-ups</p> <p>7 regarding purchase limits?</p> <p>8 MR. GERBER: Objection to the form of the</p> <p>9 question.</p> <p>10 MS. MENDOZA: I'll rephrase it.</p> <p>11 Q Was she ever reprimanded or received</p> <p>12 disciplinary action for abusing the policy?</p> <p>13 MR. GERBER: Same objection?</p> <p>14 A Not that I'm aware.</p> <p>15 Q Okay. And you see there that Kristina</p> <p>16 says, "I just have a question. Was there a limit to</p> <p>17 how many handbags we can purchase during sales? The</p> <p>18 ones are on addition." And her response is, "No</p> <p>19 limit on the 60/20/20."</p> <p>20 A Okay.</p> <p>21 Q What is the 60/20/20?</p> <p>22 A I honestly don't remember. I'm assuming</p> <p>23 'cause I don't remember, but I'm assuming 60 percent</p> <p>24 off and an additional 20 and an additional 20.</p> <p>25 Q Okay. And so was that a Bloomingdale's</p>	<p>Page 55</p> <p>1 year. I don't remember how many.</p> <p>2 Q Okay. And was it for the whole store, or</p> <p>3 was it just for each department?</p> <p>4 A I can only speak for Chanel. I don't</p> <p>5 remember for the rest of the store, but I do</p> <p>6 remember we did have to a number of times.</p> <p>7 MS. MENDOZA: I'll rephrase.</p> <p>8 Q My question is, did she conduct the</p> <p>9 meeting with the whole store, or did they just have</p> <p>10 it with each department or your department alone,</p> <p>11 which is you're saying your department alone?</p> <p>12 A Yes, that I know of.</p> <p>13 Q And what was -- what did they address</p> <p>14 during this training or discount abuse?</p> <p>15 A Depending on the training it would entail</p> <p>16 things like -- that employees or anyone actually was</p> <p>17 not allowed to purchase something and send it to</p> <p>18 another address. That that was against the law.</p> <p>19 They could not do that. There were discussions</p> <p>20 about limitation of the product again. That's</p> <p>21 pretty much all I can remember offhand.</p> <p>22 Q Okay. But that's regarding discount</p> <p>23 abuse?</p> <p>24 A Yes.</p> <p>25 Q Okay. Did you receive any documents, or</p>

<p>Page 56</p> <p>1 were there any documents distributed during these 2 training sessions?</p> <p>3 A Yes. Loss prevention, whenever they 4 conducted a meeting they would bring documents and 5 would hand out to each associate.</p> <p>6 MS. MENDOZA: We will request those 7 documents.</p> <p>8 MR. GERBER: I'm -- I'm not going keep the 9 deposition, special video, of whatever you're 10 going to request. Send us a follow-up document 11 when you can.</p> <p>12 MS. MENDOZA: Okay.</p> <p>13 MR. GERBER: And we'll respond to it 14 accordingly.</p> <p>15 Q And who led these -- withdrawn. 16 Did Christopher Castellani ever lead 17 any of these training sessions?</p> <p>18 A I honestly don't remember who that is. 19 It's possible. It's been obviously over five years 20 now, so I don't recall.</p> <p>21 Q Okay. And did any of the -- 22 MR. GERBER: Just to be clear, just so the 23 record is clear, you're saying you don't recall 24 a person named Chris Castellani, is that what 25 you're saying?</p>	<p>Page 58</p> <p>1 sliver of fabric that was printed on there, the same 2 number, so it identified it. That was in the past. 3 From what I understand from Chanel now, they no 4 longer use those cards any longer, but in past they 5 did.</p> <p>6 Q Oh, okay. And do you recall when that 7 changed?</p> <p>8 A I -- actually, I don't know. I wasn't 9 working for them. I think it's more so in the last 10 couple of years that it changed.</p> <p>11 Q So during Kristina's employment, 12 2016/2017, these authenticity cards were still in 13 place; is that correct?</p> <p>14 A Yes, they were.</p> <p>15 Q So if someone was reselling a bag, right, 16 you could check the bag to see if it matches with a 17 bag that was sold from the store; is that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay. What is Macy's credit and customer 20 service, do you know?</p> <p>21 A Sorry?</p> <p>22 Q Macy's credit and customer service, MCCS, 23 do you know what or what that is?</p> <p>24 A I don't know what that is, no.</p> <p>25 Q When was the last time you spoke with</p>
<p>Page 57</p> <p>1 THE WITNESS: It's been a long time, yeah. 2 I don't recall.</p> <p>3 Q And did any of those training sessions 4 regarding discount abuse, as you stated? Did any of 5 those occur during Kristina's training?</p> <p>6 MR. GERBER: Objection to the form of the 7 question.</p> <p>8 A I can only assume that they did at this 9 point. Obviously, again, it was five years ago. I 10 think they did.</p> <p>11 Q Okay. What were Chanel -- or what are 12 Chanel authenticity cards?</p> <p>13 A Just that. It's to authenticate the 14 product. It's almost, if you will, a credit card 15 and there's a number on it that matches inside the 16 handbag, which is actually embossed on there. It 17 actually authenticates the bag, if you will.</p> <p>18 Q Okay. So the card is only in the bag, or 19 is it also in the store as well?</p> <p>20 A Well, it's funny that you should ask, 21 because honestly they've changed. In the past it 22 used to -- each handbag had an authenticity card, 23 especially what they call the icons or classic 24 handbags, which went to the bag and then you would 25 have to search throughout the bag and there was a</p>	<p>Page 59</p> <p>1 Cathy Younis?</p> <p>2 A Probably when I left in October. October 3 of 2019.</p> <p>4 Q Okay. Besides the lateness that you 5 mentioned earlier, did you have any other 6 conversations about Kristina Mikhaylova with Cathy?</p> <p>7 A I did not, no.</p> <p>8 Q Okay. So you did not discuss Kristina's 9 performance with Cathy; is that correct?</p> <p>10 A I did not, no.</p> <p>11 Q Okay. I'll come back to her. I mentioned 12 Richard Law before, and do you recall who that was?</p> <p>13 A I recall the name. I couldn't tell you if 14 I saw him. I recall the name.</p> <p>15 Q Okay. Did you -- where was the human 16 resources department in the store?</p> <p>17 MR. GERBER: Object to the form of the 18 question.</p> <p>19 A I don't even remember. I'm sorry. I 20 think, if I'm not mistaken, it was on the fifth 21 floor. I think it was on five.</p> <p>22 Q Okay. And do you recall if Richard Law 23 was in human resources?</p> <p>24 A I think he was.</p> <p>25 Q Did you have any conversations with</p>

<p>Page 60</p> <p>1 Richard Law during your employment?</p> <p>2 A Not that I can recall.</p> <p>3 Q Did you have any conversation regarding</p> <p>4 Kristina with Richard Law?</p> <p>5 A No, I did not.</p> <p>6 Q And do you know if Richard fired Kristina.</p> <p>7 A I did not know that.</p> <p>8 Q Did you speak with anyone in loss</p> <p>9 prevention during your employment?</p> <p>10 A Regarding?</p> <p>11 Q At all, did you speak with loss</p> <p>12 prevention?</p> <p>13 A Yes, of course. I mean, we worked</p> <p>14 together. We were friendly. I would say hi to</p> <p>15 people.</p> <p>16 Q So in what manner did you work with loss</p> <p>17 prevention?</p> <p>18 A Typically there was a loss prevention</p> <p>19 station guard in our boutique. You would say hello</p> <p>20 and that was pretty much it.</p> <p>21 Q Okay. So there was like a security -- you</p> <p>22 said earlier it was like security, correct?</p> <p>23 A Yes.</p> <p>24 Q So there was a security guard there that</p> <p>25 you would speak to, correct?</p>	<p>Page 62</p> <p>1 Q Okay. Do you recall a security guard with</p> <p>2 the name Bobby Booker?</p> <p>3 A I do not.</p> <p>4 Q Okay. During Kristina's employment, do</p> <p>5 you recall if another employee was -- a male</p> <p>6 employee was flirting with her?</p> <p>7 A Not to my knowledge.</p> <p>8 Q Do you recall any male employee talking</p> <p>9 about Kristina's body?</p> <p>10 A Never.</p> <p>11 Q Do you hear any male employee make any</p> <p>12 comment about Kristina in general?</p> <p>13 A I did not, no.</p> <p>14 Q Did you hear any male employee make any</p> <p>15 sexual comments about another female employee?</p> <p>16 A Never.</p> <p>17 Q Do you recall having a conversation with</p> <p>18 Kristina asking why another male employee, a</p> <p>19 security -- withdrawn.</p> <p>20 Do you recall having a conversation</p> <p>21 with Kristina asking Kristina why another male</p> <p>22 employee, a security guard was standing close to her</p> <p>23 talking to her?</p> <p>24 A I never had that conversation.</p> <p>25 Q Okay. Who is Angilee, do you recall who</p>
<p>Page 61</p> <p>1 A Yes.</p> <p>2 Q There are more employees in that</p> <p>3 department besides just the security guard, correct?</p> <p>4 A Yes. Well, more employees in sense of the</p> <p>5 sale people, yes.</p> <p>6 Q So I'm stating -- besides the security</p> <p>7 guard duties we discussed, that loss prevention was</p> <p>8 responsible for tracking the bag purchases,</p> <p>9 correct -- handbag purchases; is that correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. So I'm saying that the security</p> <p>12 guard was not doing that as well, or was he?</p> <p>13 A No.</p> <p>14 MR. GERBER: Object to the form of the</p> <p>15 question. No foundation.</p> <p>16 Q No, he was not, you said?</p> <p>17 A No, he was not.</p> <p>18 Q Okay. Besides the security guard, was</p> <p>19 there a department in the store for loss prevention?</p> <p>20 A Yes.</p> <p>21 Q And where was that department?</p> <p>22 A Off the main floor there's a balcony</p> <p>23 level, if you will, toward the 59th Street side.</p> <p>24 Q And who is Bobby Booker?</p> <p>25 A I don't know who that is.</p>	<p>Page 63</p> <p>1 that is?</p> <p>2 A I think she was one of the associates</p> <p>3 there, from what I recall.</p> <p>4 Q Do you recall if she was fired?</p> <p>5 A I -- I don't know. I don't recall.</p> <p>6 Q Okay. And what about Idris or Orea?</p> <p>7 A I don't know who that is. I don't</p> <p>8 remember that.</p> <p>9 Q You don't remember who that is?</p> <p>10 A No, sorry.</p> <p>11 Q Do you know what the diverter --</p> <p>12 withdrawn.</p> <p>13 Is there a diverter policy?</p> <p>14 A If you're referring to reselling Chanel</p> <p>15 merchandise...</p> <p>16 Q Is that what is a diverter?</p> <p>17 A Yes.</p> <p>18 Q Okay. And is there a policy on reselling</p> <p>19 merchandise?</p> <p>20 A Yes. You can't do it.</p> <p>21 Q Right. Is it -- how are employees tracked</p> <p>22 to ensure that they are not reselling merchandise?</p> <p>23 MR. GERBER: Object to the form of the</p> <p>24 question. No foundation.</p> <p>25 A I don't know how I would know that.</p>

<p style="text-align: right;">Page 64</p> <p>1 That's not -- that's something I'm assuming would be 2 a loss prevention -- something they would follow. I 3 wouldn't be able to know that. 4 Q So you were never trained on anything 5 that -- withdrawn. 6 During Kristina's employment, did she 7 tell you that she was pregnant? 8 A Yes. 9 Q And when was that? 10 A I couldn't give you an exact date. I know 11 that was further down the road. I think we worked 12 together six months. It feels like the -- towards 13 the end of us working together. 14 Q Would you say about March 2016? 15 MR. GERBER: Object to the form of the 16 question. 17 Q Would that refresh your recollection? 18 MR. GERBER: Object to form of the 19 question. 20 A That doesn't refresh my memory. 21 Q No. And why did Kristina tell you that 22 she was pregnant? 23 A Well, I recall that. We had sat down with 24 HR, we had a couple of write-ups regarding her 25 lateness. I don't remember exact dates, but there</p>	<p style="text-align: right;">Page 66</p> <p>1 department in HR that handles accommodation 2 requests? 3 A Yeah. HR is HR. You go there, you tell 4 them what your issue is, and then however they 5 filter it out, they filter it out. As far as me 6 suggesting to go to HR, to go to HR. 7 Q Did you receive any training regarding 8 accommodation requests or disabilities -- employees 9 with disabilities? 10 A Training would have been anything, you 11 know, anyone who needs something specific to make 12 sure to partner with human resources and ensure that 13 they meet and that they -- you know, HR then takes 14 over. 15 Q Okay. And so is it policy just that 16 you're there to come to you -- withdrawn. 17 Is the policy that if you are aware 18 of an accommodation request that you are to report 19 it to HR, right, that's what you're saying? 20 A I don't -- the policy as I've always known 21 it, is that -- first of all, often times the 22 associate doesn't always come to the manager, 23 sometimes they go directly to the human resources, 24 but if they came to me, I would then direct them to 25 go to the human resources.</p>
<p style="text-align: right;">Page 65</p> <p>1 was one when I first came on board and then there 2 was one a couple of months, I think, and then it was 3 after that that she started to slip up again with 4 regard to -- you know, I was trying to be nice and 5 say, listen, you have to be careful with these 6 latenesses. You're getting late again. So you've 7 got to watch that, and at that point is when she 8 told me, oh, well, I'm pregnant, which, of course, I 9 congratulated her, because it's amazing. And then, 10 you know, followed that up by telling her, please, 11 go to HR and if she needs any accommodations, you 12 know, whatever she needs. 13 Q Okay. Okay. So did she tell you that she 14 needed an accommodation? 15 A She only told me that she was pregnant. I 16 was the one who said, do me a favor and please go to 17 HR and if you need anything, any accommodation, they 18 would be more than happy to help you with that. 19 That was it. 20 Q Okay. And you're saying the HR, the same 21 HR that we talked about before, right? 22 MR. GERBER: Object to the form of the 23 question. 24 MS. MENDOZA: I'll rephrase it. 25 Q When you say HR, is there a specific</p>	<p style="text-align: right;">Page 67</p> <p>1 Q And could you also suggest that they need 2 an accommodation? 3 A That's not for me to determine, that's for 4 human resources. 5 Q Okay. But could you say that -- 6 withdrawn. 7 If an employee needs an 8 accommodation -- withdrawn. 9 So after you told Kristina to go to 10 HR, then what happened? 11 A Well, I can only speak for myself. I went 12 and I spoke to Cathy Younis to let her know and she 13 said the same thing; absolutely, make sure you -- 14 you know, make sure to tell her to check in, to go 15 to human resources, and Cathy and I actually -- if I 16 remember correctly went to human resources just to 17 let them know in case, you know -- so the 18 information doesn't get lost. 19 Q Okay. So you and Cathy went to tell human 20 resources that she needed an accommodation? 21 A No, that's not what I said. 22 Q Okay. 23 A What I said that Cathy and I went to HR to 24 notify them that she had told us -- had told me that 25 she was pregnant and she would be coming to speak</p>

<p>1 with them.</p> <p>2 Q Okay. Do you recall who you spoke with in</p> <p>3 HR?</p> <p>4 A No, I don't recall.</p> <p>5 Q Okay. Was it documented anywhere?</p> <p>6 A I couldn't tell you that. I don't know.</p> <p>7 Q I'm saying, did you send an email or put</p> <p>8 anything in writing, you or Cathy put anything in</p> <p>9 writing to HR?</p> <p>10 A No. We went directly to human resources,</p> <p>11 so I'm sure they documented it.</p> <p>12 Q So your conversation was all in person,</p> <p>13 just verbal, correct?</p> <p>14 A Correct, verbal.</p> <p>15 Q All right. Were you aware of any</p> <p>16 accommodation that was given to Kristina?</p> <p>17 A I was not, no.</p> <p>18 Q And this is not -- as manager are you</p> <p>19 supposed to know any accommodations that are given to</p> <p>20 associates?</p> <p>21 A Not necessarily because, you know, it's</p> <p>22 private information. If it was that case that</p> <p>23 someone was continually late and -- you know, I</p> <p>24 would I -- would approach HR then they would</p> <p>25 probably notify me and say oh, this is why.</p>	<p>Page 68</p> <p>1 fine with that.</p> <p>2 Q Right. I'm just asking if you recall that</p> <p>3 you give her any permission, or there was any</p> <p>4 conversation of her coming in late and you give her</p> <p>5 permission?</p> <p>6 A I'm sorry, it was five years ago. I don't</p> <p>7 remember those conversations.</p> <p>8 Q Okay. And did she ever request to lean on</p> <p>9 a counter?</p> <p>10 A To leave when?</p> <p>11 Q To lean on a counter if she wasn't feeling</p> <p>12 well?</p> <p>13 A I never had that conversation, no.</p> <p>14 Q Okay. Did you ever see her leaning on the</p> <p>15 counter?</p> <p>16 A I don't recall ever see her leaning, no.</p> <p>17 Q Were the employees not allowed to lean on</p> <p>18 the counter?</p> <p>19 A I don't think anybody wants anyone leaning</p> <p>20 on the counter, you know, when a customer walks in.</p> <p>21 It's not very professional.</p> <p>22 Q So is that no?</p> <p>23 A No.</p> <p>24 Q Did she ever request to take any brakes</p> <p>25 because she wasn't feeling well?</p>
<p>Page 69</p> <p>1 Q Okay, okay. Did you have any discussions</p> <p>2 with Kristina after -- withdrawn.</p> <p>3 After that, did you have any other</p> <p>4 conversations with Kristina about her pregnancy?</p> <p>5 A No, I did not.</p> <p>6 Q Did you talk about her morning sickness?</p> <p>7 A No, I would never do that.</p> <p>8 Q Okay. And I'm saying if she ever</p> <p>9 discussed with you her morning sickness?</p> <p>10 A No, never.</p> <p>11 Q Did she ever tell you that she was</p> <p>12 nauseous?</p> <p>13 A No, not me.</p> <p>14 Q Were you aware that she was --</p> <p>15 MS. MENDOZA: Just one moment. Can we go</p> <p>16 off the record for two minutes.</p> <p>17 (Discussion held off the record.)</p> <p>18 Q Okay. Did Kristina request to come in</p> <p>19 late because she was pregnant?</p> <p>20 A I don't recall, she may have. I don't</p> <p>21 remember.</p> <p>22 Q Okay. Did you give Kristina any</p> <p>23 permission to come in late because she's pregnant?</p> <p>24 A If she would have asked me -- had she</p> <p>25 needed to come in late, I'm sure I would have been</p>	<p>Page 71</p> <p>1 A I don't remember.</p> <p>2 Q Okay. Did she ever request to sit down</p> <p>3 because she wasn't feeling well because of her</p> <p>4 pregnancy?</p> <p>5 A Again, I don't remember.</p> <p>6 Q Okay. Did Kristina ever vomit while at</p> <p>7 work?</p> <p>8 A Not that I'm aware of, no.</p> <p>9 Q Okay. And did Kristina have to go --</p> <p>10 withdrawn.</p> <p>11 Was there a break room upstairs?</p> <p>12 A Yes.</p> <p>13 Q Okay. And so did Kristina request to go</p> <p>14 to the break room upstairs at any point during her</p> <p>15 employment?</p> <p>16 A Again, she may have. I don't recall.</p> <p>17 Q To be more specific, did she ever say</p> <p>18 during a shift I don't feel well? I need to go</p> <p>19 upstairs?</p> <p>20 A Not that I remember, no.</p> <p>21 Q Okay. And could Cristina sit on a chair</p> <p>22 on the floor as an accommodation if she wasn't</p> <p>23 feeling well because of her pregnancy?</p> <p>24 MR. GERBER: Object to the form. No</p> <p>25 foundation.</p>

<p>Page 72</p> <p>1 A That would be something that would be</p> <p>2 determined by human resources and they would let me</p> <p>3 know or let me and Cathy know.</p> <p>4 Q And so the only -- so do you have any</p> <p>5 involvement as to any accommodations that are made</p> <p>6 for the employees that you oversee?</p> <p>7 A No, I do not.</p> <p>8 Q Okay. Did you ever tell Kristina that her</p> <p>9 write-up would be removed -- withdrawn.</p> <p>10 Did you tell Kristina that the</p> <p>11 write-up in March 2017 to April 2017, that that</p> <p>12 write-up would be removed after she informed HR</p> <p>13 about her pregnancy?</p> <p>14 A That's not something I can determine.</p> <p>15 That's not up to me.</p> <p>16 Q Right. But did you tell her it would be</p> <p>17 up to HR to remove that write-up?</p> <p>18 A I did not.</p> <p>19 Q Okay. Did you know that Kristina had</p> <p>20 intermittent -- FMLA intermittent leave?</p> <p>21 A I did not, no.</p> <p>22 Q So you mentioned before that you spoke</p> <p>23 with Cathy about Cristina's pregnancy, correct?</p> <p>24 A Yes.</p> <p>25 Q And did you discuss her due date?</p>	<p>Page 74</p> <p>1 A Yes.</p> <p>2 Q And what do you know about that?</p> <p>3 A The only thing I was told at the time -- I</p> <p>4 wasn't there, but I was told there were some</p> <p>5 procedural issues. That was all.</p> <p>6 Q What do you mean by procedural issues?</p> <p>7 A That's what I was told.</p> <p>8 Q And who told you that?</p> <p>9 A I think it was Cathy actually.</p> <p>10 Q And was Cathy there?</p> <p>11 A When she spoke to me, yes.</p> <p>12 Q Okay. And did they say -- so just to be</p> <p>13 clear, Cathy said that Kristina was suspended</p> <p>14 because of procedural issues?</p> <p>15 A Yes.</p> <p>16 Q So let's back up a little bit. In</p> <p>17 June 2017, do you recall Kristina being pulled from</p> <p>18 the floor by loss prevention?</p> <p>19 A I do not because I was not there. I was</p> <p>20 off that day.</p> <p>21 Q Okay. Did anyone inform you they were</p> <p>22 going to call Kristina to loss prevention?</p> <p>23 A No one did.</p> <p>24 Q So you didn't know beforehand that they</p> <p>25 were going -- that loss prevention was going to call</p>
<p>Page 73</p> <p>1 A I did not know her due date.</p> <p>2 Q Okay. And so you discussed it with Cathy,</p> <p>3 did you discuss -- withdrawn.</p> <p>4 You discussed Kristina's pregnancy</p> <p>5 with Cathy and with HR, right?</p> <p>6 MR. GERBER: Object to the form of the</p> <p>7 question.</p> <p>8 Q That's what you said?</p> <p>9 A Yes.</p> <p>10 Q Is there anyone else that you spoke with</p> <p>11 Bloomingdale's Macy's regarding Kristina's</p> <p>12 pregnancy?</p> <p>13 A No.</p> <p>14 Q Okay. And after that conversation with</p> <p>15 HR, did you have any other conversations with Cathy</p> <p>16 about Kristina's pregnancy?</p> <p>17 A I did not, no.</p> <p>18 Q Okay. And did you have any other</p> <p>19 conversations with Kristina about her pregnancy</p> <p>20 after that?</p> <p>21 A No, I did not.</p> <p>22 Q Okay. Do you recall if Kristina was</p> <p>23 suspended?</p> <p>24 A Do I recall what? I'm sorry.</p> <p>25 Q If Kristina suspended?</p>	<p>Page 75</p> <p>1 Kristina; is that correct?</p> <p>2 A That is correct.</p> <p>3 Q Okay. And so you found out afterwards as</p> <p>4 to the fact that Kristina was called by loss</p> <p>5 prevention; is that correct?</p> <p>6 A That is correct.</p> <p>7 Q And what happened while Kristina was out</p> <p>8 on suspension?</p> <p>9 MR. GERBER: Object to the form.</p> <p>10 A I'm sorry. I'm not sure what that means.</p> <p>11 Q Yeah, so I'm asking as far as -- because</p> <p>12 you're overseeing her, right, so I'm assuming you</p> <p>13 create the schedule; is that correct?</p> <p>14 A Yes.</p> <p>15 Q So if you don't have an employee and your</p> <p>16 employee is on suspension, I'm asking what happened</p> <p>17 as far as her position while she was out on</p> <p>18 suspension?</p> <p>19 MR. GERBER: Object to the form.</p> <p>20 A You know it was a day-to-day business.</p> <p>21 Obviously, we have 16 other associates, so we still</p> <p>22 managed the business. I had enough coverage so it</p> <p>23 wasn't that. It was -- if anything, if I needed to</p> <p>24 help any of her clients, obviously that would be the</p> <p>25 only extent of it.</p>

<p>Page 76</p> <p>1 Q Okay. Well, I'll be a little bit more 2 specific here. Were you given any instruction as to 3 what would be done if there was an investigation 4 into Kristina's employment at Bloomingdale's? 5 MR. GERBER: Object to the form of the 6 question. 7 A I was not given any other information 8 besides that. 9 Q Besides what? 10 A The procedural issues. That's all I was 11 told. 12 Q Okay. And but were you told that you can 13 start looking for a new replacement? 14 A I was not told that, no. 15 Q Okay. Did you ask when could you start 16 looking for a new replacement? 17 A I did not because it was a suspension and 18 I didn't know what the outcome would be. 19 Q Were you given an approximate time as to 20 when a date would be as to her return? 21 A No, I would not -- I was not. 22 Q Were you kept informed as to what was 23 being done regarding her suspension? 24 A No, I was not. 25 Q Okay. And who was handling her</p>	<p>Page 78</p> <p>1 anything in particular any specifics, no. 2 Q Okay. And after her suspension after 3 Kristina's suspension she was terminated, correct? 4 A Yes. 5 Q And how did you learn she was terminated? 6 A If I'm -- if I remember, there was an 7 email that -- I don't remember who it was from, but 8 it was either human resources or loss prevention. 9 It was probably both; indicating that she was no 10 longer with the company. 11 Q And do you recall when that was? 12 A No. Honestly, I don't. 13 Q Okay. And did they explain why she was no 14 longer with the company? 15 A They did not. 16 Q And did you ask why? 17 A Yes. 18 Q And what was the reason given? 19 A They didn't elaborate. 20 Q Did they give any reason? 21 A No. They just said they had grounds for 22 termination. That was it. 23 Q And was this HR that gave this response? 24 A I don't remember. 25 Q And after that, did you have any</p>
<p>Page 77</p> <p>1 suspension? 2 A Loss prevention was handling it. 3 Q Okay. 4 A I'm assuming human resources was also. 5 Q So were you cc'ed on any correspondence at 6 that time regarding Kristina's employment? 7 A Most -- I'm sure I was most likely. I 8 don't remember each email, but most likely I'm sure 9 I was. 10 Q So do you recall anything about Kristina's 11 -- withdrawn. 12 Do you recall anything as to what 13 Kristina was being investigated or -- withdrawn. 14 Do you recall anything as to what was 15 in those emails? 16 A No, I don't. 17 Q Okay. But it was from loss prevention; is 18 that correct? 19 A From what I remember either loss 20 prevention or human resources, I don't remember. 21 Q And Cathy as well? 22 A Yes. 23 Q And do you recall if it had something to 24 do with her credit card usage? 25 A I never saw anything in writing about</p>	<p>Page 79</p> <p>1 discussions with Cathy regarding Kristina's 2 termination? 3 (telephonic interruption) 4 THE WITNESS: I'm sorry. I have to 5 answer. That's my doctor. Sorry. Would you 6 repeat that, please. 7 MS. MENDOZA: Joanna read that back, 8 please. 9 (Whereupon, the last question was read 10 back.) 11 MR. GERBER: Object to the form. It's 12 been two minutes, I'm not sure what that refers 13 to at this point myself. If you could just 14 include that in your question, Ms. Mendoza. 15 MS. MENDOZA: I was repeating it back 16 because he didn't hear it. So if you want 17 her -- Joanna what was the last thing before 18 that. 19 MR. GERBER: Go ahead, Mr. Diaz. I've 20 objected to the form. 21 A I did and it was just, you know, we don't 22 have specifics. Let's just keep moving. Let's just 23 running our business it was all about the business 24 every day and we have a number of associates we have 25 to work with, so let's keep moving.</p>

<p>Page 80</p> <p>1 Q Okay. But did you discuss any -- did you</p> <p>2 discuss the reason why she was terminated?</p> <p>3 A I did not, no.</p> <p>4 Q And did you ever ring up Kristina's</p> <p>5 merchandise purchases?</p> <p>6 A Not that I'm aware of, no.</p> <p>7 Q You stated earlier though that manager</p> <p>8 have to ring up the merchandise for the employees;</p> <p>9 is that correct?</p> <p>10 A No, what I said was manager or</p> <p>11 supervisors.</p> <p>12 Q Okay. So it would either would be you or</p> <p>13 Cathy, is what you're saying?</p> <p>14 A No, we also had on the floor</p> <p>15 supervisors -- in essence like assistant managers</p> <p>16 that would be on each floor, and they would actually</p> <p>17 ring.</p> <p>18 Q And when you say on each floor, you mean</p> <p>19 they're not just exclusive to the Chanel boutique,</p> <p>20 correct?</p> <p>21 A Correct. They are part of the main floor.</p> <p>22 Q And so how many manager were there?</p> <p>23 A I think there were two supervisors, I</p> <p>24 think you're asking.</p> <p>25 Q Assistant managers, yeah. Supervisors.</p>	<p>Page 82</p> <p>1 Q Do you recall if he replaced Kristina?</p> <p>2 A I don't think so because he came on board</p> <p>3 much later.</p> <p>4 Q Okay. Do you know his last name?</p> <p>5 A I think it's Constantine.</p> <p>6 Q Okay.</p> <p>7 A He's in my phone. If you wait a second</p> <p>8 I'll verify. Yes, it's Constantine.</p> <p>9 Q Did you interview -- withdrawn.</p> <p>10 Were you responsible for interviewing</p> <p>11 the associates?</p> <p>12 A Yes.</p> <p>13 Q Was it you and Cathy that reviewed the</p> <p>14 associates?</p> <p>15 A Yes.</p> <p>16 Q Did anyone else?</p> <p>17 A Human resources.</p> <p>18 Q Okay.</p> <p>19 A Oh, and later Cathy also got involved.</p> <p>20 Q After Kristina's termination, was there</p> <p>21 any training regarding employees shipping to other</p> <p>22 states to avoid the New York sales tax?</p> <p>23 A That was a conversation that was had</p> <p>24 pretty much from the get-go when I was there. So it</p> <p>25 was a continual conversation. It was not -- it was</p>
<p>Page 81</p> <p>1 A I think there were two -- at least two per</p> <p>2 floor.</p> <p>3 Q Okay. Do you recall the names of those</p> <p>4 supervisors at that time 2016/2017?</p> <p>5 A Sorry, I do not.</p> <p>6 Q No, okay. And was it written anywhere --</p> <p>7 withdrawn.</p> <p>8 Was it documented anywhere that these</p> <p>9 supervisors could -- had to ring up the employees?</p> <p>10 A I don't recall it being in writing, but I</p> <p>11 know that it was a policy that all manager knew that</p> <p>12 we had to get a supervisor or ourselves to ring up.</p> <p>13 Q Okay. And that was Bloomingdale's/Macy's</p> <p>14 policy not Chanel's, correct?</p> <p>15 A At that point it would have been both.</p> <p>16 Q Okay. Do you know who replaced Kristina?</p> <p>17 A I do not, I don't remember.</p> <p>18 Q Do you recall an employee by the name of</p> <p>19 Zain?</p> <p>20 A I think you mean Zaid.</p> <p>21 Q Zaid?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did he work in the boutique after</p> <p>24 Kristina?</p> <p>25 A Yes.</p>	<p>Page 83</p> <p>1 not something that was new because of what occurred.</p> <p>2 It was actually done beforehand as throughout.</p> <p>3 Q Okay. And a conversation between whom?</p> <p>4 A That would be loss prevention, like we</p> <p>5 spoke about a moment ago, would come through and</p> <p>6 have a meeting with the team and would hand out the</p> <p>7 policy directives to just reiterate them each time.</p> <p>8 Q Okay. But were employees able to suggest</p> <p>9 to customers that they could ship to states to avoid</p> <p>10 the sales tax?</p> <p>11 A No, they could not.</p> <p>12 Q Okay. Was Kristina ever -- do you recall</p> <p>13 if Kristina was questioned regarding her sales?</p> <p>14 A Her personal sales?</p> <p>15 MR. GERBER: Regarding what?</p> <p>16 MS. MENDOZA: Her sales.</p> <p>17 A Not to my knowledge, no.</p> <p>18 Q Did you check the sales for each employee</p> <p>19 every month?</p> <p>20 A Yes. It's my responsibilities, yes.</p> <p>21 Q Okay. So you kept track of who was making</p> <p>22 the most sales every month, correct?</p> <p>23 MR. GERBER: Object to the form of the</p> <p>24 question.</p> <p>25 A Yes.</p>

<p>Page 84</p> <p>1 Q And did you report -- withdrawn.</p> <p>2 If an employee was making an</p> <p>3 excessive amount of sales in a given month, was that</p> <p>4 ever a concern for you?</p> <p>5 MR. GERBER: Object to the form.</p> <p>6 A What do you mean by an excessive amount of</p> <p>7 sales.</p> <p>8 Q What was the typical amount of sales on a</p> <p>9 particular month for an employee?</p> <p>10 A You know, it depends. Like anywhere you</p> <p>11 have top producers, and you have middle producers,</p> <p>12 and you have low producers. It depends. You can</p> <p>13 have an employee that can sell, you know, 300,000 in</p> <p>14 a month and you might have someone who sells</p> <p>15 100,000, so I don't know what you're asking.</p> <p>16 Q So was Kristina a top producer?</p> <p>17 A From what I recall Kristina was -- yeah,</p> <p>18 she was right up there. She was one of the better</p> <p>19 producers.</p> <p>20 Q And --</p> <p>21 A I wouldn't say top, top, but she was</p> <p>22 definitely upper middle.</p> <p>23 Q And was there any large -- withdrawn.</p> <p>24 So by saying that she was in the</p> <p>25 upper middle, right, than there was not a large</p>	<p>Page 86</p> <p>1 you supervised or were managing that were flagged by</p> <p>2 loss prevention for their sales?</p> <p>3 MR. GERBER: Objection. No foundation.</p> <p>4 A I was not privy to that, no.</p> <p>5 Q Would you be privy to that?</p> <p>6 A No, I wouldn't.</p> <p>7 Q No, okay. What are sends in the handbag</p> <p>8 department?</p> <p>9 A Sends are when a client wants to purchase</p> <p>10 something, but they don't want to carry it home.</p> <p>11 They want to send it to their home.</p> <p>12 Q And of those sales that occurred, what is</p> <p>13 the percentage of sends?</p> <p>14 A I couldn't tell you.</p> <p>15 Q Is it the majority?</p> <p>16 A No.</p> <p>17 MR. GERBER: Object to the form of the</p> <p>18 question.</p> <p>19 A No, wouldn't say so.</p> <p>20 Q Okay. And you said a client or could it</p> <p>21 be an employee as well?</p> <p>22 A It could be an employee. If they sent it</p> <p>23 to their billing address, then it would be fine.</p> <p>24 Q Okay. So what do you mean by billing</p> <p>25 address?</p>
<p>Page 85</p> <p>1 discrepancy between her sales and the next</p> <p>2 associate; is that correct?</p> <p>3 MR. GERBER: Object to the form of the</p> <p>4 question.</p> <p>5 Q I can give an example. Was Kristina</p> <p>6 making say a million dollars in sales and then the</p> <p>7 next person underneath her was making 50,000 in</p> <p>8 sales?</p> <p>9 A No, no. Thank goodness that wasn't the</p> <p>10 case. It was more so like if she was 2 million, the</p> <p>11 next person below her would be at -- could be at</p> <p>12 950-, 970-, you know, depending.</p> <p>13 Q Okay. And did you ever question --</p> <p>14 Did you have any concerns with the</p> <p>15 amount of sale that is Kristina was making during</p> <p>16 her employment?</p> <p>17 A I did not, no.</p> <p>18 Q Okay. Do you know if there was any</p> <p>19 concern by Cathy regarding Cristina's sells during</p> <p>20 her employment?</p> <p>21 A Not that I know of, no.</p> <p>22 Q And do you know if loss prevention had any</p> <p>23 concerns regarding her sales?</p> <p>24 A Not that I know of, no.</p> <p>25 Q Do you recall any of the employees that</p>	<p>Page 87</p> <p>1 A Where they live.</p> <p>2 Q But is it a billing address on their</p> <p>3 credit card?</p> <p>4 A On their credit card. I'm sorry.</p> <p>5 Q Okay. And is the Loyallist card, is that</p> <p>6 a Bloomingdale's card?</p> <p>7 MR. GERBER: Object to the form of the</p> <p>8 question.</p> <p>9 Q Is the Loyallist a Bloomingdale's credit</p> <p>10 card?</p> <p>11 A From what I remember, yes.</p> <p>12 Q Okay. And when you say the billing</p> <p>13 address, is that what you're referring to, the</p> <p>14 billing address on that card?</p> <p>15 A The billing address, whichever credit card</p> <p>16 they use.</p> <p>17 Q Okay, all right. So I want to be clear</p> <p>18 because you mentioned the billing address only for</p> <p>19 employees not for customers?</p> <p>20 A I did not say that.</p> <p>21 Q Okay.</p> <p>22 A It is for both.</p> <p>23 Q Okay. So the customer could send to the</p> <p>24 billing address on the credit card that they used,</p> <p>25 correct?</p>

<p>Page 88</p> <p>1 A That they're using, yes.</p> <p>2 Q And the same goes for the employee,</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q Could either the employee or the customer</p> <p>6 ship to any other location besides the billing</p> <p>7 address on the credit card that they're using?</p> <p>8 A They cannot.</p> <p>9 Q Okay. And is that a policy written</p> <p>10 anywhere?</p> <p>11 MR. GERBER: Object to the form of the</p> <p>12 question.</p> <p>13 A I'm sure it is, but I don't remember now,</p> <p>14 but I'm sure it is. I know it was a policy and it</p> <p>15 remains.</p> <p>16 Q Okay. Is that how you were made aware of</p> <p>17 this policy?</p> <p>18 MR. GERBER: Object to the form of the</p> <p>19 question.</p> <p>20 A I was made aware of the policy and when I</p> <p>21 went through my training there.</p> <p>22 Q Okay. Were you present during the sales</p> <p>23 of the handbags?</p> <p>24 MR. GERBER: Object to the form.</p> <p>25 A Do you mean the every day sales or what</p>	<p>Page 90</p> <p>1 to regular business.</p> <p>2 Q Okay. And do you recall if there was any</p> <p>3 -- withdrawn.</p> <p>4 Do you recall any limitations on any</p> <p>5 purchases during those sales?</p> <p>6 A I recall the same policy that adhere to on</p> <p>7 a daily basis. In other words, there was always</p> <p>8 limitations.</p> <p>9 Q Okay. And did that apply to shoes as</p> <p>10 well?</p> <p>11 A Shoes was a separate entity. I don't know</p> <p>12 what exactly happened there. I didn't manage shoes.</p> <p>13 Q Did you ever question any of your</p> <p>14 employees regarding sends?</p> <p>15 A No, I did not.</p> <p>16 Q Okay. And did you ever question any</p> <p>17 Bloomingdale's employees regarding sends?</p> <p>18 A No. Same question, no.</p> <p>19 Q I was first saying in your boutique -- in</p> <p>20 the Chanel boutique versus any Bloomingdale's</p> <p>21 employee?</p> <p>22 A Oh, I'm sorry. Yeah, no, I didn't.</p> <p>23 Q And have you ever been involved in an</p> <p>24 investigation to any of your employees purchases?</p> <p>25 A I have not, no.</p>
<p>Page 89</p> <p>1 specifically.</p> <p>2 Q So let's go back to the 60/20/20, right.</p> <p>3 So if there was like a special sale going on, were</p> <p>4 you present during those sales?</p> <p>5 A The first sale they had I was not -- I was</p> <p>6 on the late shift, so I wasn't there in the morning</p> <p>7 and it started -- if I'm not mistaken, it started</p> <p>8 like eight o'clock in the morning or something,</p> <p>9 'cause they would allow the employees to come in</p> <p>10 earlier. I was in the late shift. I was closing.</p> <p>11 I didn't get there until 11:30 or 12:30 to close.</p> <p>12 Q And would you recall if Cathy would also</p> <p>13 be there during those sales?</p> <p>14 MR. GERBER: Object to the form.</p> <p>15 A She was there for that, yeah.</p> <p>16 Q Okay. So you were able to see if --</p> <p>17 withdrawn.</p> <p>18 So as you mentioned, it was open to</p> <p>19 the employees before the customers?</p> <p>20 A Correct. I think there needs to be some</p> <p>21 clarity. It wasn't a sale for customers. It was</p> <p>22 only a sale for employees, which is why we would</p> <p>23 open the store at eight o'clock, for the employees.</p> <p>24 And by the time the store opened at 10:00 a.m. there</p> <p>25 was no longer a store happening. It would be back</p>	<p>Page 91</p> <p>1 Q Okay. Is the 60/20/20 also a double</p> <p>2 discount?</p> <p>3 A I would think so, yes.</p> <p>4 Q And I say double discount, because I don't</p> <p>5 know if that is a term used in the Chanel department</p> <p>6 or in Bloomingdale's, that's why I'm asking if</p> <p>7 60/20/20 is the same as saying double discount?</p> <p>8 A I've never heard of it referred to as</p> <p>9 that. I've only heard it referred to as 60/20/20.</p> <p>10 Q So have you ever heard of a double</p> <p>11 discount?</p> <p>12 A I have not.</p> <p>13 Q Okay. And was there any other discount</p> <p>14 besides the 60/20/20?</p> <p>15 A Only your regular discount, which I think</p> <p>16 was 30 percent. I don't remember.</p> <p>17 Q Okay. Do you recall any employees that</p> <p>18 were terminated for shipping to states to avoid</p> <p>19 paying the New York sale's tax?</p> <p>20 A Not specifically. I know that other</p> <p>21 employees were terminated. I didn't know the</p> <p>22 specifics as to why that you were terminated.</p> <p>23 Q And who were those employees?</p> <p>24 A I don't remember offhand. I couldn't</p> <p>25 guess at this point. Remember, I was only there at</p>

<p>Page 92</p> <p>1 that point only about six months; so, although, I</p> <p>2 did get to know the staff, I didn't know them</p> <p>3 completely.</p> <p>4 Q Okay. And were any employees terminated</p> <p>5 from exceeding the handbag policy purchase limit?</p> <p>6 A Not that I'm aware.</p> <p>7 MR. GERBER: Object to the form. I'm</p> <p>8 sorry. I didn't hear your answer. I didn't</p> <p>9 mean to speak over you.</p> <p>10 THE WITNESS: Not that I'm aware.</p> <p>11 Q Okay. Were any employees suspended for</p> <p>12 exceeding the handbag purchase policy limit?</p> <p>13 MR. GERBER: Object to the form. No</p> <p>14 foundation.</p> <p>15 A Not that I'm aware of.</p> <p>16 Q Did you ever ship merchandise to states</p> <p>17 for customers to -- in which they wouldn't have to</p> <p>18 pay the New York sales tax?</p> <p>19 A I did not.</p> <p>20 Q Did you ever see employees ship their</p> <p>21 purchases to states to avoid paying the sales tax?</p> <p>22 A I did not.</p> <p>23 Q And so if an employee is making a purchase</p> <p>24 for a friend, right, and lives in New Hampshire,</p> <p>25 let's say, right... if I'm an employee that's making</p>	<p>Page 94</p> <p>1 A I was not aware.</p> <p>2 Q Do you know Sandy -- no, no. My</p> <p>3 apologizes.</p> <p>4 Were there any sexual harassment</p> <p>5 training in the store?</p> <p>6 A Yes.</p> <p>7 Q Was it a general sexual harassment</p> <p>8 training, or was it specific to Chanel?</p> <p>9 A It was general to the store.</p> <p>10 Q And how often were there sexual harassment</p> <p>11 training?</p> <p>12 A When I was there a number of times</p> <p>13 throughout the year. I don't know how many. A few</p> <p>14 times.</p> <p>15 Q And who led those trainings?</p> <p>16 A They were led by HR.</p> <p>17 Q Okay. And was it documented?</p> <p>18 A Yes.</p> <p>19 Q Okay. So when I say it's documented, were</p> <p>20 there handouts during those trainings?</p> <p>21 A There were handouts and also a discussion.</p> <p>22 MS. MENDOZA: Okay. We'll be requesting</p> <p>23 those documents.</p> <p>24 Q And did you ever report anyone sexually</p> <p>25 harrassing another employee?</p>
<p>Page 93</p> <p>1 this purchase for my friend in New Hampshire, is</p> <p>2 that employee -- or would I be questioned then as to</p> <p>3 why I'm sending my purchase to new Hampshire?</p> <p>4 MR. GERBER: Object to the form of the</p> <p>5 question.</p> <p>6 A Yes, you would.</p> <p>7 Q And who would question me?</p> <p>8 A That would be loss prevention.</p> <p>9 Q Okay. And is that because they're the</p> <p>10 ones that are keeping track of the purchases?</p> <p>11 MR. GERBER: Object to the form of the</p> <p>12 question. No foundation for this witness.</p> <p>13 A Yes, they are keeping track.</p> <p>14 Q Do you know if Kristina was suspended for</p> <p>15 reselling?</p> <p>16 A I'm sorry?</p> <p>17 Q Do you know if Kristina was suspended for</p> <p>18 reselling?</p> <p>19 A I do not know that.</p> <p>20 Q Do you recall there being any</p> <p>21 conversations regarding Kristina potentially</p> <p>22 reselling?</p> <p>23 A I never heard that conversation.</p> <p>24 Q Were you aware of any conversations</p> <p>25 regarding Kristina reselling?</p>	<p>Page 95</p> <p>1 A Never.</p> <p>2 Q Did anyone report to you about another</p> <p>3 employee sexually harrassing another employee?</p> <p>4 A Never.</p> <p>5 Q Did any employee ever explain to you about</p> <p>6 sexual harassment?</p> <p>7 A Never.</p> <p>8 Q Did any employee ever -- withdrawn.</p> <p>9 Was there also discrimination and</p> <p>10 retaliation training in the store?</p> <p>11 A Yes.</p> <p>12 Q And did anyone ever complain to you about</p> <p>13 any discrimination or retaliation?</p> <p>14 A No.</p> <p>15 Q Did you ever report any discrimination or</p> <p>16 retaliation?</p> <p>17 A No.</p> <p>18 Q Okay. So I want to go back to an exhibit</p> <p>19 now. The conversation you had with Kristina</p> <p>20 regarding her pregnancy -- and we'll enter exhibit</p> <p>21 -- it says EOC charge.</p> <p>22 MS. MENDOZA: This is going be marked as</p> <p>23 Exhibit 3.</p> <p>24 MR. GERBER: Can I get Bates numbers on</p> <p>25 that, please. I know what the document is, but</p>

<p>Page 96</p> <p>1 I can't see --</p> <p>2 MS. MENDOZA: Mikhaylova0016 and it ends</p> <p>3 at 157.</p> <p>4 Q All right. So this marked as Plaintiff's</p> <p>5 Exhibit 3. Mr. Diaz, this a document that was</p> <p>6 submitted by your attorneys. It says at the top</p> <p>7 there -- actually, correction. It's by Macy's Inc.,</p> <p>8 right? It says at the top there Taryn Filo. Do you</p> <p>9 say see that?</p> <p>10 A I see that.</p> <p>11 Q Do you know who Taryn Filo is?</p> <p>12 A No idea.</p> <p>13 Q This was sent -- if you look at the left</p> <p>14 it says it's addressed to the U.S. Equal Employment</p> <p>15 Opportunity Commission and it's to Anthony Pino. Do</p> <p>16 you see that in the left?</p> <p>17 A I see that, yes.</p> <p>18 Q And the date is June 6th, 2019. It's</p> <p>19 addressed to -- I mean, it states Kristina</p> <p>20 Mikhaylova versus Bloomingdale's LLC. And if you</p> <p>21 turn to page 120 -- if you go down to 120 -- Bates</p> <p>22 stamp 120. At the top there, the first paragraph.</p> <p>23 A Yes.</p> <p>24 Q It says, "Sometime After her April 2017</p> <p>25 Formal Reminder Form, complainant disclosed to</p>	<p>Page 98</p> <p>1 question.</p> <p>2 A What I told her was to, as I said, contact</p> <p>3 human resources and they obviously would then refer</p> <p>4 her to whoever.</p> <p>5 Q Right. But did you advise her to contact</p> <p>6 a leave of absence department, which is what it says</p> <p>7 in this document?</p> <p>8 MR. GERBER: Objection.</p> <p>9 A I think I answered that.</p> <p>10 Q No, you're saying that you sent her to HR,</p> <p>11 correct?</p> <p>12 A That's what I said, yes.</p> <p>13 Q That's not what I'm asking. I'm asking if</p> <p>14 you advised her -- what it says right here. You</p> <p>15 advised her to contact the leave of absence</p> <p>16 department?</p> <p>17 A I said that I advised her to go to human</p> <p>18 resources. They would then determine who -- who</p> <p>19 takes this over.</p> <p>20 Q Right. That is not to say the same as you</p> <p>21 advising her to go the leave the absence department,</p> <p>22 correct?</p> <p>23 MR. GERBER: Object to the form of the</p> <p>24 question. It's just argumentative.</p> <p>25 A I did not write this document, so I can</p>
<p>Page 97</p> <p>1 Mr. Diaz that she was pregnant. Mr. Diaz</p> <p>2 congratulated her good news and advised her to</p> <p>3 contact the Leave of Absence Department, the central</p> <p>4 HR team that handling requests for leaves of absence</p> <p>5 and intermittent leaves." Do you see that there?</p> <p>6 A Yes.</p> <p>7 Q So to go back to your testimony, did you</p> <p>8 send her -- is that true that you sent her to the</p> <p>9 leave the absence department?</p> <p>10 MR. GERBER: Object to the form of the</p> <p>11 question.</p> <p>12 A I'm sorry, but what I said was I sent her</p> <p>13 to to human resources. I don't know about that</p> <p>14 department.</p> <p>15 Q Right. So my question is, is this</p> <p>16 correct, what's written here?</p> <p>17 MR. GERBER: Object to the form of the</p> <p>18 question.</p> <p>19 A I would have told her, like I said, to</p> <p>20 contact human resources, not to contact the leave</p> <p>21 the absence department. I don't know.</p> <p>22 Q So this is not accurate is my point? That</p> <p>23 you did send her to contacts the leave the absence</p> <p>24 department, correct?</p> <p>25 MR. GERBER: Object to the form of the</p>	<p>Page 99</p> <p>1 only tell you -- I can only be honest.</p> <p>2 Q Right. And I just want there to be</p> <p>3 clarification. It's not intended to be</p> <p>4 argumentative at all. I know that you didn't write</p> <p>5 this. I'm just asking for purposes of clarification</p> <p>6 not to misunderstand what's written here versus your</p> <p>7 testimony. That's why I just want to know if it is</p> <p>8 true that you did not advise her to contact a leave</p> <p>9 of absence department, that's all?</p> <p>10 MR. GERBER: He's just answered five times</p> <p>11 now.</p> <p>12 You can answer again, sir.</p> <p>13 A Yes, I did not. I told her to contact</p> <p>14 human resources.</p> <p>15 Q Yes, you told her to contact human</p> <p>16 resources, is that your answer?</p> <p>17 A Yes, that's what I said.</p> <p>18 Q And that's what you've been saying,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Okay. And are you aware of a leave of</p> <p>22 absence department?</p> <p>23 A Not offhand, no. I'm sure there's one, I</p> <p>24 just don't know it.</p> <p>25 Q Were you aware of a leave of absence</p>

<p>Page 100</p> <p>1 department at the time?</p> <p>2 A I'm assuming that fell under the umbrella</p> <p>3 of human resources.</p> <p>4 Q I'm not asking now of your assumption.</p> <p>5 It's, did you know at that time that there was a</p> <p>6 leave of absence department?</p> <p>7 A I can't tell you what I -- you know, what</p> <p>8 I knew, you know, over five years ago. I don't</p> <p>9 remember.</p> <p>10 Q Okay. And then if we can go down to 146</p> <p>11 -- Bates stamp 146. Have you ever seen this</p> <p>12 document before?</p> <p>13 A Possible, I don't recall seeing it.</p> <p>14 Q Okay. So during your employment -- do you</p> <p>15 recall during your employment at Bloomingdale's, do</p> <p>16 you recall seeing this document?</p> <p>17 A I don't recall, no.</p> <p>18 Q Okay. And it says there "New York City"</p> <p>19 at the top. "New York City is a family friendly</p> <p>20 city with a strong and vibrant work force, including</p> <p>21 pregnant woman and people with children." This is</p> <p>22 the NYC Commission On Human rights regarding</p> <p>23 accommodation for pregnant employees, right? That's</p> <p>24 what it says there?</p> <p>25 MR. GERBER: Objection. He just said he</p>	<p>Page 102</p> <p>1 to keep track of an employee's status?</p> <p>2 MR. GERBER: Object to the form.</p> <p>3 A What do you mean by status.</p> <p>4 Q So to keep track of their -- anything</p> <p>5 regarding their employment?</p> <p>6 MR. GERBER: Object to the form.</p> <p>7 A I mean, in regards to, like, sales and</p> <p>8 things like that.</p> <p>9 Q Did they have a file? Did each employee</p> <p>10 have a file on a soft -- on a software program that</p> <p>11 was used by you?</p> <p>12 A Not by me. It would have been something</p> <p>13 through HR.</p> <p>14 Q Okay. So did you have to -- so regarding</p> <p>15 the sales that you checked every day, did you have</p> <p>16 to add anything to each person's file?</p> <p>17 A No. I did not, no.</p> <p>18 Q No?</p> <p>19 A No.</p> <p>20 Q So let's go do BLM754.</p> <p>21 MR. GERBER: That will be Exhibit 4; is</p> <p>22 that correct?</p> <p>23 MS. MENDOZA: Matt; is that correct?</p> <p>24 THE VIDEO TECH: Yes.</p> <p>25 MS. MENDOZA: I think it is.</p>
<p>Page 101</p> <p>1 doesn't recall seeing this document.</p> <p>2 MS. MENDOZA: I'm asking about the</p> <p>3 document.</p> <p>4 MR. GERBER: Object to the form of the</p> <p>5 question.</p> <p>6 Q That's what this document is, correct?</p> <p>7 A From what I testified, yes.</p> <p>8 Q And did you refer to any document --</p> <p>9 withdrawn.</p> <p>10 You did not provide accommodations</p> <p>11 for your associates, correct?</p> <p>12 MR. GERBER: Asked and answered.</p> <p>13 A That was provided by human resources.</p> <p>14 Q Okay. And were employees aware --</p> <p>15 withdrawn.</p> <p>16 Were your associates aware that they</p> <p>17 are to go to HR for accommodation requests?</p> <p>18 A Yes, they were.</p> <p>19 Q How were they made aware of that?</p> <p>20 A Sorry. I couldn't hear.</p> <p>21 Q And how were they made aware of that?</p> <p>22 A Through human resources.</p> <p>23 MS. MENDOZA: We can get off this page.</p> <p>24 Q Was there a sales force -- withdrawn.</p> <p>25 Was there any program that you used</p>	<p>Page 103</p> <p>1 Q Okay. Let's take a minute to look at this</p> <p>2 document.</p> <p>3 MR. GERBER: Is there a question pending?</p> <p>4 MS. MENDOZA: He was looking at the</p> <p>5 document.</p> <p>6 Q Are you done looking at it?</p> <p>7 A Yes.</p> <p>8 Q Okay, great. Have you seen this before?</p> <p>9 A I have never seen this.</p> <p>10 Q No, okay. So this is -- what I was asking</p> <p>11 you before is to -- if you used a software for each</p> <p>12 employee. I was referring to something here. It</p> <p>13 says employee ID at the top and an employee number</p> <p>14 and Kristina Mikhaylova, payroll status terminated.</p> <p>15 So going back to my question, did you use any</p> <p>16 software program that you would input her sales or</p> <p>17 daily performance such as this?</p> <p>18 MR. GERBER: Such as this document?</p> <p>19 MS. MENDOZA: Correct.</p> <p>20 A That's a different question if you ask me,</p> <p>21 because this looks like it's something that's</p> <p>22 related to human resources, which I would not be</p> <p>23 privy to.</p> <p>24 Q Right. And I'm not saying this document,</p> <p>25 because you've already said you've never seen this</p>

<p>1 before, right?</p> <p>2 A Right.</p> <p>3 Q So I'm not saying this. I'm saying such</p> <p>4 as this format, where you would input -- like a</p> <p>5 program like this where you would keep track of each</p> <p>6 employee, that's what I'm asking trying to ask. If</p> <p>7 you used any program?</p> <p>8 A It was more so done on a day-to-day or a</p> <p>9 monthly conversation with the employee, you know, to</p> <p>10 look at their sales versus the department sales,</p> <p>11 that kind of thing.</p> <p>12 Q Okay. So there wasn't a Bloomingdale's</p> <p>13 software program that you had to use that would keep</p> <p>14 track of each employee's sales?</p> <p>15 A No. Not that I recall, no.</p> <p>16 Q Okay. So was that on a spreadsheet?</p> <p>17 A No. The conversations were in-person and</p> <p>18 they would be -- yeah, they would be in front of you</p> <p>19 in the sense that we would print out what the sales</p> <p>20 were and then you would actually talk to the</p> <p>21 associate about where they landed for the month, et</p> <p>22 cetera.</p> <p>23 Q Okay. And did you have to submit any of</p> <p>24 those documents to Bloomingdale's or anybody else?</p> <p>25 MR. GERBER: Object to the form of the</p>	<p>Page 104</p>	<p>1 average or if they were on average or above.</p> <p>2 Q And that's what you mean by productivity?</p> <p>3 A That's it.</p> <p>4 Q So going back to the document now, Exhibit</p> <p>5 4. It says, Kristina Mikhaylova at the top there</p> <p>6 and it says reason, "A series health condition that</p> <p>7 prevents me from performing the essential functions</p> <p>8 of my job." Did Kristina ever say that to you?</p> <p>9 A She did not.</p> <p>10 Q Okay. So we can get off this page. So</p> <p>11 how did you keep track of each employee's</p> <p>12 performance on a day-to-day basis?</p> <p>13 MR. GERBER: Objection, asked and</p> <p>14 answered.</p> <p>15 A Again, going over the previous days,</p> <p>16 numbers, meeting with them, you know, talking about</p> <p>17 their productivity, or how they did, et cetera, and</p> <p>18 then also doing it on a monthly basis.</p> <p>19 Q Right. My question is, where did you</p> <p>20 document each employee's day-to-day performance?</p> <p>21 A I -- that's not something I documented.</p> <p>22 It would come up. There was a computer, and I'm not</p> <p>23 sure what it was exactly, but it would come up with</p> <p>24 everyone's sales. You can print it out and then</p> <p>25 have the discussion.</p>
<p>1 question.</p> <p>2 Q Besides your department?</p> <p>3 A I don't -- I don't understand the</p> <p>4 question. I'm sorry.</p> <p>5 Q Yeah. So you're saying that you would</p> <p>6 have these reports of each employee's sales, right?</p> <p>7 A Yes.</p> <p>8 Q Besides talking to the employee about it,</p> <p>9 did you talk or submit these documents to anyone</p> <p>10 else?</p> <p>11 A Only in the case of where an associate was</p> <p>12 failing productivity then that would be a discussion</p> <p>13 with human resources and then that would involve</p> <p>14 most likely a warning or counsel. Counsel is first.</p> <p>15 Q When you say lack of productivity, is that</p> <p>16 they're just not meeting the sales numbers?</p> <p>17 A They're not meeting the department</p> <p>18 standard, which is -- I don't remember what the</p> <p>19 formulation was there, but, if I'm not mistaken, it</p> <p>20 was whatever the total sales were for the month</p> <p>21 divided by the number of associates and then you</p> <p>22 also have to take into account the numbers of hours</p> <p>23 worked and then it would look at where they would</p> <p>24 fall in their hourly sales. And that would</p> <p>25 determine whether an associate was falling below the</p>	<p>Page 105</p>	<p>1 Q Do you recall what the program was that</p> <p>2 would come up?</p> <p>3 A I do not.</p> <p>4 Q Okay. And did that come from</p> <p>5 Bloomingdale's or Macy's?</p> <p>6 A It came from Bloomingdale's.</p> <p>7 Q Okay. Was it just for the sales?</p> <p>8 A Yes.</p> <p>9 Q Did it also include their write-ups such</p> <p>10 as tardiness?</p> <p>11 A No.</p> <p>12 Q Okay. So my question is for you, then how</p> <p>13 did you document tardiness or any other performance</p> <p>14 besides the sales for each employee that you were</p> <p>15 supervising?</p> <p>16 A Any other performance issues we can look</p> <p>17 at another, I guess, it was an HR-related printout</p> <p>18 that would show us our time clocks, when they</p> <p>19 clocked in and out, et cetera. And at that point I</p> <p>20 think it was -- you had to have three for more -- I</p> <p>21 don't remember how many there were, but either two</p> <p>22 or three latenesses per month that you would then</p> <p>23 have to counsel at the end of that month.</p> <p>24 Q Okay. And so part of your duties was to</p> <p>25 look at the schedules to see the printouts from the</p>

<p>Page 108</p> <p>1 HR that you're talking about and see if anyone went 2 past -- withdrawn. 3 Was part of your duties to go and 4 look at the schedule to see if anyone was 5 excessively late? 6 A Yes. 7 Q Okay. And what are other responsibilities 8 did you have for checking on each employee's 9 performance? 10 A You know, there was that. There was the 11 employee sales obviously, pretty much the 12 day-to-day. I was in the boutique, you know, quite 13 a while, so I would make sure that they were 14 performing and, you know, assisting clients at all 15 times. That was pretty much it. 16 MS. MENDOZA: Okay. Okay. I just want to 17 go over the last document, the complaint. We 18 can pull that up. All right. This is 19 Plaintiff's Exhibit 5. And it's plaintiff's 20 amended complaint. 21 Do you see the document, Mr. Diaz? 22 THE WITNESS: Yes, I see it. 23 Q And have you seen this document before? 24 And you can scroll if you want. 25 A I think this was -- hold on a second. I</p>	<p>Page 110</p> <p>1 A Frankly, I remember that there were two 2 separate write-ups. I don't know the exact dates, 3 but I know there were two separate write-ups, and it 4 was well after the second write-up that she informed 5 me. So these dates are not correct. 6 Q In paragraph -- 7 A In all honestly, I wouldn't have been 8 there April 6th anyway because that's my mother's 9 birthday and I usually go to Miami, so I wouldn't 10 have been here. 11 Q Okay. So going to the next paragraph, 46. 12 It says, "Plaintiff immediately informed Diaz that 13 she recently learned she was pregnant with a 14 tentative due date in 2017." See that there? 15 A Yes, I see it. 16 Q Is that true? 17 A That is not true. 18 Q And why not? 19 A Because she informed me she was pregnant 20 well after this date, and I never knew what the due 21 date was. I don't ask those questions. I would not 22 know that. 23 Q Okay. But she did not share that with 24 you? 25 A She did not.</p>
<p>Page 109</p> <p>1 think, if I'm not mistaken -- this was the first 2 document I received back in February of this year. 3 Q And if we turn to page 7, please. And if 4 you look at paragraph number 39. I know, Mr. Diaz, 5 you said previously that you don't recall 6 Mr. Booker, correct? 7 A That's correct. 8 Q So this is plaintiff's complaint and here 9 it says, "Defendant Booker unwelcomely touched 10 plaintiff's arm when he spoke to her and regularly 11 stood uncomfortably close to plaintiff on purpose." 12 Do you recall any male employee touching plaintiff's 13 arm? 14 A I do not. 15 Q And going down to paragraph 45. It says 16 "In or around April 6th, 2017, defendant Diaz issued 17 plaintiff a write-up for tardiness in the month of 18 March 2017." Do you see that? 19 A Yes, I see it. 20 Q And is that true? 21 A I don't think it was March. 22 Q Okay. 23 A I think -- I think that's wrong. I think 24 it was way after that. 25 Q Okay. Was it around April 6th, 2017?</p>	<p>Page 111</p> <p>1 Q Is that correct? 2 A Exactly, she did not share that with me. 3 Q "Plaintiff further explained the reason 4 for her tardiness was due to terrible morning 5 sickness." Do you see that there? 6 A I do see that, yes. 7 Q Is that true? 8 A I don't -- I never had that conversation. 9 Q Okay. Then it says "Defendant Diaz 10 informed plaintiff that he still had to write her up 11 for tardiness and human resources would make a 12 decision as to considering that write-up." Do you 13 see that? 14 A Yes. 15 Q Is that true? 16 A That is not true. 17 Q And what part of it is not true? 18 A I would not write-up anyone who was 19 pregnant for tardiness. I mean, I'm not an animal. 20 I'm sorry. This is not true. This is not correct. 21 Q Okay. Did you tell Kristina that human 22 resources would have to make a decision considering 23 the write-up? 24 A Not -- I never did, no. 25 Q Okay. And paragraph 49 it says, "On or</p>

<p style="text-align: right;">Page 112</p> <p>1 about May 15, 2017 plaintiff informed defendant 2 Bloomingdale's of her nausea and fatigue related to 3 her pregnancy." Do you see that there? 4 A I see that, yes. 5 Q And do you recall Kristina telling you 6 that? 7 A I do not. 8 Q Were you aware of Kristina's nausea or 9 fatigue? 10 A I was not. 11 Q And it says -- 12 A You're hitting all the dates. May 15th is 13 my sister's birthday, and I would also be in Miami. 14 So you're hitting all the days that I'm not even 15 here. 16 Q So it says on or about, so it's not the 17 exact date but -- 18 A I don't go to Miami for one day. I go for 19 a number of days, I'm just saying. 20 Q Right. And I state that just so you 21 understand the question, that it's on or about, not 22 just the exact date. So then it states in the same 23 paragraph on 49, "Plaintiff informed defendants that 24 on occasion she has to arrive at work late and leave 25 work early because of the extreme nausea and fatigue</p>	<p style="text-align: right;">Page 114</p> <p>1 MR. GERBER: Just one question. 2 EXAMINATION 3 BY MR. GERBER: 4 Q Mr. Diaz, you talked about a two-step 5 process in terms of Ms. Mikhaylova's lateness. Did 6 you prepare or work with somebody else to prepare a 7 counseling summary and thereafter an attendance and 8 performance reminder you talked about two of them, 9 correct? 10 A Yes. 11 Q And one of those documents -- the earlier 12 one is dated February 2017 and the second one is 13 dated April 19, 2017. And you are clear and certain 14 that any knowledge you have of Ms. Mikhaylova's 15 pregnancy was subsequent to the second of those 16 counseling or write-ups for lateness, correct? 17 A It was directly after. 18 Q Thank you nothing further. 19 (Whereupon, the deposition 20 concluded at 1:11 p.m.) 21 22 23 24 25</p>
<p style="text-align: right;">Page 113</p> <p>1 she was experiencing from her pregnancy." Do you 2 see there? 3 A I do see that. Who are defendants? 4 Q So that would be Bloomingdale's and 5 including yourself. 6 A That may be Bloomingdale's, not me. 7 Q Did she tell you that she had to arrive 8 work late or leave work early due to nausea or 9 fatigue? 10 A She did not. 11 Q Okay. And you previously stated that you 12 didn't know about Kristina's FLMA intermittent leave 13 request, correct? 14 A I did not know about the request, no. 15 Q Did you ever receive any doctor's note 16 from Kristina regarding her pregnancy? 17 A Not that I remember or I'm aware of. 18 Q Did you ever see any doctor's note in 19 general from Kristina? 20 A Not that I remember, no. 21 Q Do you recall discussing a doctor's note 22 regarding Kristina? 23 A No, I did not. 24 MS. MENDOZA: Okay. And that's all the 25 questions that I have.</p>	

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C E R T I F I C A T E

STATE OF NEW YORK)
 :
COUNTY OF KINGS

I, JOANNA MARTINEZ, a Notary Public within and
for the State of New York, do hereby certify:

THAT DENIS DIAZ, the witness whose deposition
is hereinbefore set forth, was duly sworn by me and
that such deposition is a true record of the
testimony given by such witness.

I further certify that I am not related to any
of the parties to this action by blood or marriage;
and that I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 10th of December 2022.

JOANNA MARTINEZ

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BARTON (1)	cards (3)	coming (2)	COUNTY (1)
based (8)	careful (1)	comment (1)	couple (5)
basic (1)	CARROTS (1)	comments (1)	course (3)
basis (7)	carry (1)	commission (5)	COURT (4)
Bates (6)	Case (14)	communicated (2)	coverage (1)
beautiful (1)	cases (1)	Communications (4)	COVID (2)
beginning (1)	CASTELLANI (4)	company (2)	crash (1)
believe (1)	Cathy (44)	complain (1)	create (1)
Bergdorf (8)	Cathy's (2)	complainant (1)	credit (10)
best (2)	cause (2)	complaining (1)	crime (1)
Better (6)	cc'ed (1)	complaint (4)	Cristina (1)
Betty (3)	Celine (3)	completely (1)	Cristina's (2)
billing (9)	central (1)	comply (1)	Cuba (1)
birthday (2)	certain (4)	computer (2)	current (1)
bit (5)	certification (1)	concern (2)	currently (2)
BLM754 (1)	certify (2)	concerns (2)	customer (5)
blood (1)	cetera (3)	concluded (1)	customers (10)
BLOOMINGDALE'S	chair (1)	condition (2)	
(53)	Chanel (27)	conduct (6)	< D >
	Chanel's (1)	conducted (2)	d/b/a (3)
Bloomingdale's/Macy's	Chang (2)	confirm (1)	daily (7)
(1)	change (1)	congratulated (2)	date (12)
board (4)	changed (4)	connected (1)	dated (2)
BOBBY (3)	charge (1)	considered (1)	dates (4)
body (1)	check (4)	considering (2)	daughter (1)
book (2)	checked (1)	consistent (1)	daughters (1)
BOOKER (5)	checking (1)	constant (1)	David (1)
born (2)	children (1)	Constantine (2)	day (6)
bother (1)	Chris (1)	constantly (1)	days (10)

day-to-day (7)	distributed (3)	ESQ (2)	filed (1)
de (3)	distribution (1)	essence (7)	filing (1)
deadline (3)	DISTRICT (2)	essential (1)	Filo (2)
December (4)	diverter (3)	essentially (1)	filter (2)
decision (2)	divided (2)	et (3)	fine (3)
decisions (1)	doctor (2)	Everest (1)	finish (1)
Defendant (7)	doctor's (3)	everyone's (1)	fire (1)
Defendants (3)	document (30)	exact (6)	fired (7)
definitely (2)	documented (8)	exactly (7)	first (13)
demotion (2)	documents (14)	EXAMINATION (4)	five (7)
DENIS (3)	doing (7)	examined (1)	flagged (2)
DENNIS (2)	dollar (1)	example (2)	flirting (1)
DEPARTMENT (32)	dollars (1)	exceed (2)	FLMA (1)
departure (1)	double (4)	exceeded (1)	floor (22)
depended (3)	downstairs (1)	exceeding (3)	floors (1)
Depending (2)	due (6)	exceptions (2)	FMLA (1)
depends (4)	duly (2)	excessive (2)	follow (4)
deponent (1)	duties (4)	excessively (1)	followed (3)
deposition (22)	< E >	exclusive (1)	following (1)
DEREK (1)	earlier (5)	exhibit (20)	follows (1)
describe (1)	early (2)	exist (1)	follow-up (1)
DESCRIPTION (3)	effect (3)	expectation (1)	force (4)
designer (1)	eight (2)	experience (2)	forget (1)
determine (5)	either (7)	experiencing (1)	form (59)
determined (1)	elaborate (2)	explain (5)	formal (3)
DIAZ (24)	EMAIL (6)	explained (1)	format (1)
difference (4)	EMAIL:melissa@drek	extent (1)	formulation (1)
different (6)	smithlaw.com (1)	extreme (1)	forth (1)
direct (2)	emails (2)	< F >	FORTY (1)
directives (2)	embossed (1)	fabric (1)	forward (2)
directly (4)	emergency (1)	fact (1)	found (1)
director (2)	employee (56)	failing (1)	foundation (10)
directors (1)	employees (45)	fair (2)	four (1)
disabilities (2)	employee's (6)	Fairfield (1)	frame (1)
disagree (1)	employer (2)	fall (1)	frankly (2)
disciplinary (6)	employment (20)	falling (1)	Freeport (1)
disclosed (1)	ends (1)	family (2)	friend (2)
discount (20)	ensure (3)	far (6)	friendly (2)
discounted (1)	ensuring (2)	fatigue (4)	front (3)
discounts (2)	entail (2)	favor (1)	fully (1)
discrepancy (1)	entailed (1)	February (2)	function (1)
discretion (1)	enter (1)	feel (1)	functions (1)
discrimination (3)	entire (1)	feeling (4)	funny (1)
discuss (9)	entity (1)	feels (1)	FURTHER (6)
discussed (11)	EOC (1)	fell (1)	< G >
discussing (1)	Equal (1)	female (1)	gains (1)
Discussion (8)	Esesdris (1)	Fifth (3)	geared (1)
discussions (3)	especially (2)	file (3)	general (6)
dissolved (1)			

GERBER (93)	hereto (1)	inside (1)	late (11)
get-go (1)	hereunto (1)	instance (1)	lateness (5)
getting (1)	Hey (4)	instruction (1)	latenesses (6)
GILMAN (1)	Hi (2)	intended (2)	LAW (8)
Giorgio (1)	high (1)	interested (1)	lawsuit (2)
give (12)	high-end (1)	intermittent (4)	layed (2)
given (9)	higher (1)	interrupt (1)	lead (1)
go (49)	hired (1)	interruption (1)	lean (3)
goes (1)	hires (2)	interview (1)	leaning (3)
going (24)	hitting (2)	interviewing (1)	learn (2)
Good (4)	Hold (2)	introduce (3)	learned (1)
Goodman (3)	home (2)	investigated (1)	lease (1)
goodness (1)	honest (1)	investigation (2)	leased (4)
gosh (1)	honestly (8)	inviting (1)	leave (18)
great (1)	hopes (1)	involve (1)	leaves (2)
ground (2)	hourly (2)	involved (2)	led (5)
grounds (1)	hours (4)	involvement (1)	left (4)
GROUP (1)	HR (41)	Island (1)	letter (2)
guard (8)	HR-related (1)	issue (4)	level (2)
Gucci (5)	human (30)	issued (1)	licensee (2)
guess (9)	hunter (1)	issues (8)	limit (13)
guilty (1)	husband (1)		limitation (1)
gurantee (1)		< J >	limitations (2)
	< I >	JOANNA (5)	limited (1)
< H >	iconic (2)	job (4)	limits (11)
half (1)	icons (2)	judge (1)	listen (1)
Hampshire (3)	ID (1)	July (1)	little (7)
hand (3)	idea (1)	June (3)	live (2)
handbag (16)	identified (1)	jury (1)	lived (2)
handbags (9)	Idris (1)		lives (1)
handbook (2)	immediately (1)	< K >	living (1)
handles (1)	impair (2)	keep (12)	LLC (3)
handling (3)	important (2)	keeping (2)	LLP (1)
handouts (3)	inappropriate (1)	Kemi (3)	LOCAL (2)
happen (1)	incentive (1)	kept (3)	location (1)
happened (7)	include (2)	kind (5)	locations (1)
happening (1)	included (1)	KINGS (1)	Long (6)
happy (2)	including (3)	knew (3)	longer (6)
harassment (4)	increase (1)	know (131)	look (15)
harrassing (2)	indicate (1)	knowledge (3)	looked (1)
HBGs (1)	indicating (1)	known (1)	looking (5)
head (2)	individually (4)	KRISTINA (75)	looks (1)
health (1)	inform (2)	Kristina's (20)	loss (27)
hear (8)	informal (1)		lost (4)
heard (7)	information (3)	< L >	lot (5)
held (8)	informed (10)	la (3)	loudly (1)
hello (1)	initial (1)	lack (1)	loved (1)
help (4)	in-person (2)	landed (1)	lovely (1)
hereinbefore (1)	input (2)	large (2)	low (1)

lower (1)	Miami (3)	NYC (1)	Penn (1)
Loyallist (2)	micromanage (1)	< O >	people (3)
luxury (1)	middle (5)	oath (1)	percent (2)
< M >	MIKHAYLOVA (13)	Object (51)	percentage (1)
MACY'S (10)	Mikhaylova0016 (1)	objected (2)	perfectly (1)
mailings (1)	Mikhaylova00197 (1)	Objection (9)	performance (13)
main (6)	Mikhaylova's (2)	objections (1)	performing (2)
majority (1)	million (3)	Obviously (18)	period (1)
making (8)	Minneapolis (1)	occasion (1)	permission (3)
male (7)	minor (1)	occur (1)	person (7)
manage (3)	minute (2)	occurred (2)	personal (1)
managed (2)	minutes (2)	o'clock (2)	person's (1)
management (3)	mistaken (6)	October (3)	phone (2)
manager (34)	misunderstand (1)	Oddly (1)	phonetic (1)
managers (13)	moment (3)	offer (2)	physical (1)
managing (1)	money (1)	offhand (4)	Pino (1)
manner (1)	monitary (1)	Oh (7)	place (3)
manual (2)	month (16)	Okay (272)	Plaintiff (12)
March (4)	monthly (2)	ones (5)	plaintiff's (8)
mark (1)	months (4)	open (2)	plan (2)
marked (5)	morning (10)	opened (1)	Plaza (1)
marriage (1)	mother's (1)	opportunity (4)	please (12)
married (2)	move (3)	Order (1)	pled (1)
MARTINEZ (3)	moved (1)	Orea (1)	PLLC (1)
matches (2)	moving (2)	original (1)	point (14)
Matt (5)	multiple (1)	Originally (2)	points (1)
matter (1)	< N >	Oscar (2)	policies (5)
Max (1)	name (12)	outcome (5)	policy (35)
maximum (2)	named (2)	oversee (3)	portion (1)
MCCS (1)	names (1)	overseeing (1)	pose (1)
mean (25)	narrow (1)	oversight (3)	posed (1)
Meaning (1)	narrowed (1)	< P >	position (16)
means (2)	nausea (4)	p.m (1)	possible (2)
medical (1)	nauseous (1)	page (16)	potentially (1)
medication (2)	necessarily (4)	paragraph (7)	Practice (2)
meet (7)	need (8)	paralegal (1)	pregnancy (14)
meeting (11)	needed (8)	part (7)	pregnant (13)
meetings (5)	needs (5)	particular (2)	prepare (8)
MELISSA (2)	never (28)	parties (2)	prepared (2)
memory (1)	NEW (31)	partner (4)	prescription (2)
MENDOZA (54)	news (1)	partnering (1)	PRESENT (3)
mental (1)	nice (1)	party (1)	pretty (9)
mentioned (6)	NJ (1)	Passaic (1)	prevent (1)
merchandise (7)	Notary (4)	pay (3)	prevention (28)
message (1)	note (3)	paying (2)	prevents (1)
messages (4)	notify (2)	payroll (1)	previous (1)
Messner (1)	number (17)	pending (1)	previously (3)
met (1)	numbers (7)		print (2)
			printed (1)

printout (2)	raises (4)	reselling (8)	sealing (1)
printouts (1)	read (5)	reserved (1)	search (1)
prior (1)	Ready-to-Wear (3)	resided (1)	seasoned (1)
private (1)	really (1)	resources (29)	second (8)
privy (4)	reason (6)	respective (1)	security (12)
probably (5)	recall (87)	respond (2)	see (40)
procedural (4)	receive (11)	responding (1)	seeing (4)
proceed (1)	received (7)	response (6)	seen (11)
proceeded (1)	recollection (1)	responsibilities (2)	sell (2)
process (2)	recommend (2)	responsible (3)	sells (2)
producer (1)	record (15)	rest (1)	send (7)
producers (4)	refer (2)	RETAIL (3)	sending (1)
product (5)	referred (2)	retaliation (3)	sends (5)
productivity (5)	referring (3)	return (1)	Senior (2)
products (1)	refers (2)	review (9)	sense (3)
professional (1)	refresh (2)	reviewed (1)	sent (5)
program (7)	regard (1)	reviews (5)	separate (5)
promoted (3)	regarding (31)	revised (1)	separated (1)
promotional (1)	regards (3)	RICHARD (7)	series (1)
promotions (2)	register (3)	ridiculous (1)	service (2)
prompted (1)	regular (2)	right (45)	serving (1)
protection (1)	regularly (1)	rights (1)	sessions (3)
protocols (1)	reiterate (1)	ring (10)	set (2)
provide (1)	related (3)	road (1)	setting (1)
provided (2)	relative (1)	rolled (1)	sexual (5)
Public (4)	remains (1)	room (2)	sexually (2)
pull (1)	remember (44)	Rules (2)	sgerber@bglaw.com
pulled (1)	Reminder (2)	running (2)	(1)
purchase (19)	remove (1)	RWDSU/UFCW (1)	share (2)
purchased (1)	removed (2)		she'd (1)
purchases (14)	Renta (3)	< S >	shift (3)
purchasing (1)	repeat (2)	salary (2)	ship (4)
purpose (1)	repeating (1)	sale (14)	shipping (2)
purposes (2)	rephrase (7)	sales (47)	shoes (3)
pursuant (1)	replace (1)	sale's (1)	shop (1)
pursue (1)	replaced (2)	salesman (1)	Shore (1)
put (3)	replacement (2)	salesperson (3)	show (2)
	report (12)	Sandy (1)	showed (1)
< Q >	reported (3)	Sanela (3)	sickness (3)
qualifications (1)	reporter (2)	sat (1)	side (1)
quarterly (1)	reporting (2)	saw (2)	sideways (1)
question (71)	reports (1)	saying (25)	sign (2)
questioned (2)	represent (2)	says (35)	signed (2)
questions (6)	reprimanded (1)	schedule (2)	single (1)
quite (2)	reprimands (1)	schedules (1)	sir (2)
	request (12)	scope (1)	sister's (1)
< R >	requesting (1)	screen (2)	sit (3)
raise (3)	requests (5)	scroll (1)	situation (1)
raised (2)	required (1)	se (1)	six (3)

SKUs (1)	structure (1)	terms (1)	< U >
slip (1)	stuff (1)	terrible (1)	U.S (1)
sliver (1)	submit (2)	testified (4)	umbrella (1)
SMITH (1)	submitted (1)	testify (1)	uncomfortably (1)
smoothly (1)	subsequent (1)	Testimony (4)	underneath (1)
soft (1)	successful (1)	text (5)	understand (12)
software (5)	suffer (1)	thank (7)	UNION (1)
sold (1)	suggest (2)	thing (5)	UNITED (4)
somebody (1)	suggesting (1)	things (11)	unwelcomely (1)
sorry (36)	suit (1)	think (55)	update (1)
SOUTHERN (1)	Suite (2)	three (6)	upper (2)
speak (11)	summary (1)	tier (1)	upstairs (3)
speaking (3)	Sunday (1)	time (28)	usage (1)
special (3)	supervise (1)	times (16)	use (11)
specific (6)	supervised (6)	title (2)	Usually (3)
specifically (2)	supervising (1)	today (5)	
specifics (3)	supervisor (6)	today's (6)	< V >
spoke (12)	supervisors (8)	told (20)	vacation (1)
spoken (2)	supposed (2)	top (14)	value (1)
spreadsheet (1)	sure (20)	total (1)	Vellecca (3)
staff (1)	surmises (1)	touched (1)	verbal (2)
stamp (2)	Susan (1)	touching (1)	verify (1)
stamped (1)	suspended (7)	tower (1)	versed (1)
stand (3)	suspension (9)	track (12)	versus (5)
standard (3)	swore (1)	tracked (2)	vibrant (1)
standards (1)	sworn (3)	tracking (1)	Video (5)
standing (2)	system (3)	traditionally (2)	violation (1)
start (5)		traffic (1)	vomit (1)
started (6)	< T >	trail (1)	
starting (2)	take (15)	trained (3)	< W >
State (7)	taken (3)	training (28)	wait (1)
stated (3)	takes (2)	trainings (5)	waived (1)
STATES (10)	talk (3)	transaction (2)	walks (1)
stating (2)	talked (3)	transpired (1)	want (12)
station (1)	talking (6)	TRIAL (2)	wanted (10)
status (3)	tardiness (6)	true (14)	wants (2)
STENOGRAPHER	Taryn (2)	Trump (1)	warning (2)
(1)	tax (5)	trunk (1)	watch (1)
Steve (4)	teaching (1)	truth (1)	water (1)
STEVEN (1)	team (3)	truthfully (1)	way (3)
STIPULATED (3)	Tech (4)	try (1)	week (1)
stood (1)	Technical (1)	trying (2)	weekly (1)
stop (2)	telephonic (1)	turn (3)	welcome (1)
STORE (27)	tell (20)	two (15)	well (28)
stores (1)	telling (5)	two-step (1)	went (12)
STOREWORKERS	tentative (1)	Tyndall (1)	we're (3)
(2)	term (1)	typical (2)	WHEREOF (1)
Street (3)	terminated (10)	typically (5)	whichever (1)
strong (1)	termination (3)		WHOLESALE (1)

withdrawn (42)
WITNESS (25)
wives (1)
woman (1)
won (1)
wonderful (1)
words (1)
work (24)
worked (10)
working (8)
Wright (1)
write (4)
write-up (20)
write-ups (9)
writing (5)
written (8)
written-up (1)
wrong (1)
wrongdoing (2)
wrote (1)

< Y >

Yeah (15)
year (15)
years (14)
YORK (19)
Yorker (1)
Younis (8)

< Z >

Zaid (2)
Zain (1)
Zoom (1)